

Extra Ordinary Part - VI / 1999

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 2nd January, 1999.

No. RP/108/98/Act-23/98/E.—The following Act of Parliament is
 re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
 (Legislative Department)

New Delhi, the 11th August, 1998/Sravana 20, 1920 (Saka)

The following Act of Parliament received the assent of the President on the
 10th August, 1998 and is hereby published for general information :

**THE INTEREST ON DELAYED PAYMENTS TO SMALL SCALE
 AND ANCILLARY INDUSTRIAL UNDERTAKINGS**

(AMENDMENT) ACT, 1998

(Act No. 23 of 1998)

AN ACT

(10th August, 1998)

*to amend the Interest on Delayed Payments to Small Scale and Ancillary Industrial
 Undertakings Act, 1993.*

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as
 follows:—

1. This Act may be called the Interest on Delayed Payments to Small Scale and
 Ancillary Industrial Undertakings (Amendment) Act, 1998.

Short title.

2. In the Interest on Delayed Payments to Small Scale and Ancillary Industrial
 Undertakings Act, 1993 (hereinafter referred to as the principal Act), in section 2, in
 clause (f), for the words "or Union territory", the following shall be substituted, namely:—

Amendment of
 section 2.

"or Union territory and includes,—

(i) the National Small Industries Corporation, being a company, registered
 under the Companies Act, 1956;

32 of 1993.

1956.

(ii) the Small Industries Development Corporation of a State or a Union territory, by whatever name called, being a company registered under the Companies Act, 1956."

1 of 1956.

Amendment of section 3.

3. In section 3 of the principal Act, the following proviso shall be inserted, namely:—

"Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed one hundred and twenty days from the day of acceptance or the day of deemed acceptance."

Substitution of new section for section 4.

Date from which and rate at which interest is payable.

4. For section 4 of the principal Act, the following section shall be substituted, namely:—

4. Where any buyer fails to make payment of the amount to the supplier, as required under section 3, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay interest to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at one and half time of Prime Lending Rate charged by the State Bank of India.

Explanation.—For the purposes of this section, "Prime Lending Rate" means the Prime Lending Rate of the State Bank of India which is available to the best borrowers of the bank.

Amendment of section 6.

5. Section 6 of the principal Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) Notwithstanding anything contained in sub-section (1), any party to a dispute may make a reference to the Industry Facilitation Council for acting as an arbitrator or conciliator in respect of the matters referred to in that sub-section and the provisions of the Arbitration and Conciliation Act, 1996 shall apply to such dispute as if the arbitration or conciliation were pursuant to an arbitration agreement referred to in sub-section (1) of section 7 of that Act."

26 of 1996.

Insertion of new sections 7A, 7B and 7C.

Establishment of Industry Facilitation Council.

Composition of Industry Facilitation Council.

6. After section 7 of the principal Act, the following sections shall be inserted, namely:—

"7A. The State Government may, by notification in the Official Gazette, establish one or more Industry Facilitation Councils at such places exercising such jurisdiction and for such areas, as may be specified in the notification.

7B. (1) The Industry Facilitation Council shall consist of one or more members to be appointed from amongst the following categories:—

(i) Director of Industries by whatever name called or any other officer not below the rank of such Director, of the State Government;

(ii) representatives of banks and financial institutions;

(iii) office-bearers or representatives of State Industry Associations; and

(iv) persons having special knowledge in the field of Industry, Finance, Law, Trade and Commerce.

(2) The person appointed under clause (i) of sub-section (1) shall be the Chairperson of the Industry Facilitation Council.

(3) The composition of the Industry Facilitation Council, the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, the members shall be such as may be prescribed by rules by the State Government.

7C. Every notification issued and every rule made by the State Government under this Act shall be laid, as soon as may be after it is issued or made, before the State Legislature."

Laying of rules
before State
Legislature.

Dr. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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PART—VI

Acts of Parliament and Ordinance promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT.

Sachivalaya, Gandhinagar, 16th January, 1999.

No. RP/109/98/Act-24/98/E.—The following Act of Parliament is re-published for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, 20th August, 1998/Shravana 29, 1920 (Saka).

The following Act of Parliament received the assent of the President on the 20th August, 1998, and is hereby published for general information :—

THE BEEDI WORKERS WELFARE CESS (AMENDMENT)

ACT, 1998

(Act No. 24 of 1998)

(20th August, 1998)

AN ACT

further to amend the Beedi Workers Welfare Cess Act, 1976

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows—

1. (1) This Act may be called the Beedi Workers Welfare Cess (Amendment) Act, 1998.

Short title
and comm-
encement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendme-
nt of sect-
ion 3 of
Act 56 of
1976.

2. In the Beedi Workers Welfare Cess Act, 1976, in section 3, in sub-section (1), for the words "not be less than ten paise or more than fifty paise," the words "not be less than fifty paise or more than five rupees" shall be substituted.

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar 16th January. 1999.

No. RP/110/98/Act-25/98/E.—The following Act of Parliament is re-published for
 general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, 20th August, 1998/Shravana 29, 1920. (Saka).

The following Act of Parliament received the assent of the President on the 20th
 August, 1998 and is hereby published for general information.

**THE PRESIDENT'S EMOLUMENTS AND PENSION (AMENDMENT)
 ACT, 1998**

(Act No. 25 of 1998)

(20th August, 1998)

AN ACT

further to amend the President Emoluments and Pension Act, 1951

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the President's Emoluments and Pension (Amendment)
 Act, 1998.

Short title.

30 of 1951.

2. In section 1A of the President's Emoluments and Pension Act, 1951 (hereinafter
 referred to as the principal Act), for the words "twenty thousand rupees", the words
 "fifty thousand rupees" shall be substituted and shall be deemed to have been substi-
 tuted with effect from the 1st day of January, 1996.

Amendm-
 ent of
 section 1A.

Amend-
ment of
section 2.

3. In section 2 of the principal Act, in sub-section (1),—

(i) for the words "one lakh twenty thousand rupees", the words "three lakh rupees" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of January, 1996;

(ii) the following proviso shall be inserted at the end, namely:—

"Provided that if any person before assuming the office of President, has held the office of the Vice-President, such person shall not be entitled to any pension and other benefits under the provisions of the Vice-President's Pension Act, 1997."

30 of 1997

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. K. JHAVERI,
Secretary to Government.



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PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 16th January, 1999.

No. RP/111/98/Act-26/98/E.—The following Act of Parliament is re-published for general information.

MINISTRY OF LAW JUSTICE AND COMPANY AFFAIRS,

(Legislative Department)

New Delhi, the 20th August, 1998/Shravana 29, 1920 (Saka)

The following Act of Parliament received the assent of the President on the 20th August, 1998 and is hereby published for general information:—

**THE SALARIES AND ALLOWANCES OF OFFICERS OF PARLIAMENT
 (AMENDMENT) ACT, 1998.**

(Act No. 26 of 1998)

(20th August, 1998)

AN ACT

further to amend the Salaries and Allowances of Officers of Parliament Act, 1953.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Salaries and Allowances of Officers of Parliament (Amendment) Act, 1998: Short title and commencement

(2) It shall be deemed to have come into force on the 1st day of January, 1996.

Amend-
ment of
section 3.

2. In the Salaries and Allowances of Officers of Parliament Act, 1953 (hereinafter referred to as the principal Act), for sub-section (1), the following sub-section shall be substituted, namely:—

20 of 1953.

“(1) There shall be paid to the Chairman of the Council of States a salary of forty thousand rupees per mensem.”.

Amend-
ment of
section 5.

3. In section 5 of the principal Act, the words “the Chairman of the Council of States and” shall be omitted.

DR. RAGHBIR SINGH,
Secretary to the Government of India,

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinance promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 16th January, 1999.

No. RP/112/98/Act-27/98/E.—The following Act of Parliament is re-published for
general information:

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS,

(Legislative Department)

New Delhi, the 20th August, 1998/Shravana 29, 1998/ (Saka).

The following Act of Parliament received the assent of the President on the 20th
August, 1998 and is hereby published for general information :—

**THE GOVERNORS (EMOLUMENTS, ALLOWANCES AND PRIVILEGES)
AMENDMENT ACT, 1998**

(Act No. 27 of 1998)

(20th August, 1998)

AN

ACT

*further to amend the Governors (Emoluments, Allowances and Privileges)
Act, 1982.*

Enacted by Parliament in the Forty-ninth Year of the Republic of India as
follows:—

Short
title.

1. This Act may be called the Governors (Emoluments, Allowances and Privileges) Amendment Act, 1998.

Amend-
ment of
Act 48 of
1992.

2. In section 3 of the Governor (Emoluments, Allowances and Privileges) Act, 1982, for the words "rupees eleven thousand per mensem", the words "rupees thirty-six thousand per mensem" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of January, 1996.

DR. RAGHBIR SINGH,
Secretary to the Government of India,

By order and in the name of the Governor of Gujarat.

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinance promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 16th January, 1999.

No. RP/113/98/Act-28/98/E.—The following Act of Parliament is re-published for
 general information.

GOVERNMENT OF INDIA**MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS.****(Legislative Department)**

New, Delhi, 20th August, 1998/Shravana 29, 1928 (Saka).

The following Act of Parliament received the assent of the President on the 20th
 August, 1998, and is hereby published for general information:—

**THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF PARLIAMENT
 (AMENDMENT) ACT, 1998.**

(Act No. 28 of 1998)*AN ACT***(20th August, 1998)**

further to amend the Salary Allowances and Pension of Members of Parliament Act, 1954

Enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1998. Short title.

Amendment of section 3.

2. In section 3 of the Salary, Allowances and Pension of Members of Parliament Act 1954 (hereinafter referred to as the principal Act), for the words "one thousand and five hundred rupees" and "two hundred rupees", the words "four thousand rupees" and "four hundred rupees" shall respectively be substituted.

30 of 1954.

Amendment of section 4.

3. In section 4 of the principal Act,—

(i) in sub-section (2), in clause (c), in sub-clause (ii), for the words "five rupees" the words "six rupees" shall be substituted;

(ii) the proviso to sub-section (2) shall be omitted.

Amendment of section 5.

4. In section 5 of the principal Act, in sub-section (2),—

(i) in the proviso, for the word "twenty-eight", the word "thirty-two" shall be substituted;

(ii) after the proviso as so amended, the following proviso shall be inserted, namely:—

"Provided further that where the number of journeys performed by any member by air is less than thirty-two, then, such number of journeys not performed by him shall be carried over to the following year."

Amendment of section 6B.

5. In section 6B of the principal Act, for clause (iii), the following clause shall be substituted, namely:—

"(iii) to free travel by any railway in India in first class air-conditioned or executive class in all trains by the spouse, if any, of the member from the usual place of residence of the member to Delhi and back and if such journey or any part thereof is performed by air from any place other than the usual place of residence of the member, to Delhi and back, to an amount equal to the fare by air for such journey or part thereof".

Amendment of section 8A.

6. In section 8A of the principal Act,

(a) in sub-section (1),—

(a) for the words "one thousand and four hundred rupees", the words "two thousand and five hundred rupees" shall be substituted;

(b) in the first proviso, for the words "two hundred and fifty rupees", the words "five hundred rupees" shall be substituted;

(ii) for sub-section (1A), the following sub-section shall be substituted, namely:—

"(1A) With effect from the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1998, there shall be paid a pension of rupees one thousand per annum, to the spouse, if any, or dependant of any member who dies during his term of office as such member, for a period of five years from the date of his death".

Amendment of section 8B.

7. In section 8B of the principal Act, for the words "fifty thousand rupees", the words "one lakh rupees" shall be substituted.

Sd/- DR. RAGHBIR SINGH,
Secretary to the Government of India,

By order of the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 24th February, 1999.

No. RP/14/99/ORD-4/99/E.— The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 8th January, 1999 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 8th January, 1999 / Pausa 18, 1920 (Saka)

THE CENTRAL VIGILANCE COMMISSION ORDINANCE, 1999

(No. 4 of 1999)

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance to provide for the constitution of a Central Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto.

WHEREAS the Central Vigilance Commission Ordinance, 1998 was promulgated by the President on the 25th day of August, 1998;

AND WHEREAS the said Ordinance was amended by promulgation of the Central Vigilance Commission (Amendment) Ordinance, 1998 on the 27th day of October, 1998;

AND WHEREAS the Central Vigilance Commission Bill, 1998 to replace the aforesaid Ordinances was introduced in the House of the People on the 7th day of December, 1998 but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the aforesaid Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I PRELIMINARY

Short title
and com-
mencement.

1. (1) This Ordinance may be called the Central Vigilance Commission Ordinance, 1999.

(2) It shall be deemed to have come into force on the 25th day of August, 1998.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means the date on which the Commission is constituted under sub-section (1) of section 3;

(b) "Central Vigilance Commissioner" means the Central Vigilance Commissioner appointed under sub-section (1) of section 4;

(c) "Commission" means the Central Vigilance Commission constituted under sub-section (1) of section 3;

(d) "Delhi Special Police Establishment" means the Delhi Special Police Establishment constituted under sub-section (1) of section 2 of the Delhi Special Police Establishment Act, 1946;

25 of 1946.

(e) "prescribed" means prescribed by rules made under this Ordinance;

(f) "Vigilance Commissioner" means a Vigilance Commissioner appointed under sub-section (1) of section 4.

CHAPTER II THE CENTRAL VIGILANCE COMMISSION

Constitution
of Central
Vigilance
Com-
mission.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted a body to be known as the Central Vigilance Commission to exercise the powers conferred upon, and to perform the functions assigned to it under this Ordinance.

(2) The Commission shall consist of—

(a) a Central Vigilance Commissioner— Chairperson;

(b) not more than four Vigilance Commissioners — Members.

(3) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed from amongst persons—

(a) who have been or are in an all-India Service or in any civil service of the Union or in a civil post under the Union having knowledge and experience in the matters relating to vigilance, policy making and administration including police administration; and

(b) who have held office or are holding office in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government and persons who have expertise and experience in finance including insurance and banking, law, vigilance and investigations:

Provided that, from amongst the Central Vigilance Commissioner and the Vigilance Commissioners, not more than three persons shall belong to the category of persons referred to either in clause (a) or in clause (b).

(4) The Central Government shall appoint a Secretary to the Commission on such terms and conditions as it deems fit to exercise such powers and discharge such duties as the Commission may by regulations specify in this behalf.

(5) The headquarters of the Commission shall be at New Delhi.

4. (1) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed by the President by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of—

- | | | |
|--|---|--------------|
| (a) the Prime Minister | — | Chairperson; |
| (b) the Minister of Home Affairs | — | Member; |
| (c) the Leader of the Opposition
in the House of the People | — | Member. |

Appoint-
ment
of Central
Vigilance
Com-
missioner
and
Vigilance
Com-
missioners.

(2) No appointment of a Central Vigilance Commissioner or a Vigilance Commissioner shall be invalid merely by reason of any vacancy in the Committee.

5. (1) Subject to the provisions of sub-sections (3) and (4), the Central Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier.

(2) Subject to the provisions of sub-sections (3) and (4), every Vigilance Commissioner shall hold office for a term of three years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier.

(3) The Central Vigilance Commissioner or a Vigilance Commissioner shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Schedule.

(4) The Central Vigilance Commissioner or a Vigilance Commissioner may, by writing under his hand addressed to the President, resign his office.

(5) The Central Vigilance Commissioner or a Vigilance Commissioner may be removed from his office in the manner provided in section 6.

(6) On ceasing to hold office, the Central Vigilance Commissioner and every other Vigilance Commissioner shall be ineligible for—

Terms and
other
conditions
of service
of Central
Vigilance
Com-
missioner
and
Vigilance
Commis-
sioners.

(a) reappointment in the Commission;

(b) further employment to any office of profit under the Government of India or the Government of a State.

(7) The salary and allowances payable to and the other conditions of service of—

(a) the Central Vigilance Commissioner shall be the same as those of the Chairman of the Union Public Service Commission;

(b) the Vigilance Commissioner shall be the same as those of a Member of the Union Public Service Commission.

Provided that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Central Vigilance Commissioner or any Vigilance Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity.

Provided further that the salary, allowances and pension payable to, and the other conditions of service of, the Central Vigilance Commissioner or any Vigilance Commissioner shall not be varied to his disadvantage after his appointment.

Removal of
Central
Vigilance
Com-
missioner
and
Vigilance
Commis-
sioners.

6. (1) Subject to the provisions of sub-section (3), the Central Vigilance Commissioner or any Vigilance Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Central Vigilance Commissioner or any Vigilance Commissioner, as the case may be, ought on such ground be removed.

(2) The President may suspend from office the Central Vigilance Commissioner or any Vigilance Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Central Vigilance Commissioner or any Vigilance Commissioner if the Central Vigilance Commissioner or such Vigilance Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Central Vigilance Commissioner or a Vigilance Commissioner.

(4) If the Central Vigilance Commissioner or any Vigilance Commissioner is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

7. The Central Government may by rules make provision with respect to the number of members of the staff of the Commission and their conditions of service.

Power to make rules by Central Government for staff.

CHAPTER III

FUNCTIONS AND POWERS OF THE CENTRAL VIGILANCE COMMISSION

8. (1) The functions and powers of the Commission shall be to—

Functions and powers of Central Vigilance Commission.

49 of 1988. (a) exercise superintendence over the functioning of the Delhi Special Police Establishment insofar as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988;

49 of 1988. (b) inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act, Government company, society and any local authority owned or controlled by that Government, has committed an offence under the Prevention of Corruption Act, 1988;

49 of 1988. (c) inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988;

49 of 1988. (d) review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the Prevention of Corruption Act, 1988;

49 of 1988. (e) review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988;

(f) tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise;

(g) exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

(2) The persons referred to in clause (c) of sub-section (1) are as follows:—

(a) Group 'A' officers of the Central Government;

(b) such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf;

Provided that till such time a notification is issued under this clause, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (c) of sub-section (1).

Proceedings
of Com-
mission.

9. (1) The proceedings of the Commission shall be conducted at its headquarters.

(2) The Commission shall observe such rules of procedure in regard to the transaction of the business as may be provided by regulations.

(3) The Central Vigilance Commissioner, or, if for any reason he is unable to attend any meeting of the Commission, the seniormost Vigilance Commissioner present at the meeting, shall preside at the meeting.

(4) No act or proceeding of the Commission shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person acting as the Central Vigilance Commissioner or as a Vigilance Commissioner; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

Vigilance
Com-
missioner
to act as
Central
Vigilance
Com-
missioner
in certain
circum-
stances.

10. (1) In the event of the occurrence of any vacancy in the office of the Central Vigilance Commissioner by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Vigilance Commissioners to act as the Central Vigilance Commissioner until the appointment of a new Central Vigilance Commissioner to fill such vacancy.

(2) When the Central Vigilance Commissioner is unable to discharge his functions owing to absence on leave or otherwise, such one of the Vigilance Commissioners as the President may, by notification, authorise in this behalf, shall discharge the functions of the Central Vigilance Commissioner until the date on which the Central Vigilance Commissioner resumes his duties.

Power
relating
to inquiries.

11. The Commission shall, while conducting any inquiry referred to in clauses (b) and (c) of sub-section (1) of section 8, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following 5 of 1908. matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter which may be prescribed.

2 of 1974. 12. The Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 and every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

45 of 1860 Proceedings before Commission to be judicial proceedings.

CHAPTER IV EXPENSES AND ANNUAL REPORT

13. The expenses of the Commission, including any salaries, allowances and pensions payable to or in respect of the Central Vigilance Commissioner, the Vigilance Commissioners, Secretary and the staff of the Commission, shall be charged on the Consolidated Fund of India.

Expenses of Commission to be charged on the Consolidated Fund of India.

14. (1) It shall be the duty of the Commission to present annually to the President a report as to the work done by the Commission.

Annual report.

(2) The report referred to in sub-section (1) shall contain a separate part on the functioning of the Delhi Special Police Establishment insofar as it relates to sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946.

25 of 1946.

(3) On receipt of such report, the President shall cause the same to be laid before each House of Parliament.

CHAPTER V MISCELLANEOUS

15. No suit, prosecution or other legal proceeding shall lie against the Commission, the Central Vigilance Commissioner, any Vigilance Commissioner, the Secretary or against any staff of the Commission in respect of anything which is in good faith done or intended to be done under this Ordinance.

Protection of action taken in good faith.

Central
Vigilance
Com-
missioner,
Vigilance
Com-
missioner
and staff
to be
public
servants.

16. The Central Vigilance Commissioner, every Vigilance Commissioner, the Secretary and every staff of the Commission shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Report of
any inquiry
made on
reference
by
Commission
to be
forwarded
to that
Com-
mission.

17. (1) The report of the inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission.

(2) The Commission shall, on receipt of such report and after taking into consideration any other factors relevant thereto, advise the Central Government and corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government, as the case may be, as to the further course of action.

(3) The Central Government and the corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government, as the case may be, shall consider the advice of the Commission and take appropriate action:

Provided that where the Central Government, any corporation established by or under any Central Act, Government company, society or local authority owned or controlled by the Central Government, as the case may be, does not agree with the advice of the Commission, it may, for reasons to be recorded in writing, communicate the same to the Commission.

Power to
call for
information.

18. The Commission may call for reports, returns and statements from the Central Government or corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government so as to enable it to exercise general supervision over the vigilance and anti-corruption work in that Government and in the said corporations, Government companies, societies and local authorities.

Power to
give
directions.

19. The Commission shall from time to time give directions to the Delhi Special Police Establishment for the purpose of discharging the responsibility entrusted to it under sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946:

25 of 1946.

Provided that the Commission shall not exercise its powers in such a manner so as to require the Delhi Special Police Establishment to investigate or dispose of a particular case only in a particular manner.

Power to
make
rules.

20. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of members of the staff and their conditions of service under section 7;

(b) any other power of the civil court to be prescribed under clause (f) of section 11; and

(c) any other matter which is required to be, or may be, prescribed.

21. (1) The Commission may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Ordinance and the rules made thereunder to provide for all matters for which provision is expedient for the purposes of giving effect to the provisions of this Ordinance.

Power to
make
regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the duties and the powers of the secretary under sub-section (4) of section 3; and

(b) the procedure to be followed by the Commission under sub-section (2) of section 9.

22. Every notification issued under clause (b) of sub-section (2) of section 8 and every rule made by the Central Government and every regulation made by the Commission under this Ordinance shall be laid, as soon as may be after it is issued or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or the rule or regulation, or both Houses agree that the notification or the rule or regulation should not be made, the notification or the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule or regulation.

Notification,
rule, etc.,
to be laid
before
Parliament.

23. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, not inconsistent with the provisions of this Ordinance, remove the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Ordinance.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

24. With effect from the appointed day the Central Vigilance Commission set up by the Resolution of the Government of India in the Ministry of Home Affairs No. 24/7/64-AVD dated the 11th February, 1964 (hereafter referred to in this section as the existing Vigilance Commission) shall, insofar as its functions are not inconsistent with the provisions of this Ordinance, continue to discharge the said functions and,—

Provisions
relating
to
existing
Vigilance
Com-
mission.

(a) all actions and decisions taken by the existing Vigilance Commission insofar as such actions and decisions are relatable to the functions of the Commission constituted under this Ordinance (hereafter referred to in this section as the new Commission) shall be deemed to have been taken by the new Commission;

VI-EX-7-3

(b) all proceedings pending before the existing Vigilance Commission, insofar as such proceedings relate to the functions of the new Commission, shall be deemed to be transferred to the new Commission and shall be dealt with in accordance with the provisions of this Ordinance;

(c) the employees of the existing Vigilance Commission shall be deemed to have become the employees of the new Commission on the same terms and conditions;

(d) all the assets and liabilities of the existing Vigilance Commission shall be transferred to the new Commission.

Appoint-
ments, etc.,
of officers
of
Directorate
of Enforc-
ment.

25. Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973 or any other law for the time being in force, —

(a) the Central Government shall appoint a Director of Enforcement in the Directorate of Enforcement in the Ministry of Finance on the recommendation of the Committee consisting of—

(i) the Central Vigilance Commissioner — Chairperson;

(ii) Secretary to the Government of India
in-charge of the Ministry of Home Affairs
in the Central Government — Member;

(iii) Secretary to the Government of India
in-charge of the Ministry of Personnel
in the Central Government — Member;

(iv) Secretary to the Government of India
in-charge of the Department of Revenue,
Ministry of Finance in the Central
Government — Member;

(b) no person below the rank of Additional Secretary to the Government of India shall be eligible for appointment as a Director of Enforcement;

(c) a Director of Enforcement shall continue to hold office for a period of not less than two years from the date on which he assumes office;

(d) a Director of Enforcement shall not be transferred except with the previous consent of the Committee referred to in clause (a);

(e) the Committee referred to in clause (a) shall recommend officers for appointment to the posts of the level above the Deputy Director of Enforcement and also recommend the extension or curtailment of the tenure of such officers in the Directorate of Enforcement;

(f) on receipt of the recommendation under clause (e), the Central Government shall pass such order as it thinks fit to give effect to the said recommendation.

Amendment
of Act 25
of 1946.

26. In the Delhi Special Police Establishment Act, 1946, with effect from the appointed day—

(a) after section 1, the following section shall be inserted, namely:—

"1A. Words and expressions used herein and not defined but defined in the Central Vigilance Commission Ordinance, 1999, shall have the meanings, respectively, assigned to them in that Ordinance."

Interpretation section.

(b) for section 4, the following sections shall be substituted, namely:—

49 of 1988.

"4. (1) The superintendence of the Delhi Special Police Establishment insofar as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988, shall vest in the Commission.

Superintendence and administration of Special Police Establishment.

(2) Save as otherwise provided in sub-section (1), the superintendence of the said police establishment in all other matters shall vest in the Central Government.

(3) The administration of the said police establishment shall vest in an officer appointed in this behalf by the Central Government (hereinafter referred to as the Director) who shall exercise in respect of that police establishment such of the powers exercisable by an Inspector-General of Police in respect of the police force in a State as the Central Government may specify in this behalf.

4A. (1) The Central Government shall appoint the Director on the recommendation of the Committee consisting of—

Committee for appointment of Director.

(a) the Central Vigilance Commissioner — Chairperson;

(b) Secretary to the Government of India in-charge of the Ministry of Home Affairs in the Central Government — Member;

(c) Secretary to the Government of India in-charge of the Ministry of Personnel in the Central Government — Member.

(2) While making any recommendation under sub-section (1), the Committee shall consider the views of the Director.

(3) The Committee shall recommend a panel of officers—

(a) on the basis of seniority, integrity and experience in the investigation of anti-corruption cases; and

(b) chosen from amongst officers belonging to the Indian Police Service constituted under the All-India Services Act, 1951,

61 of 1951.

for being considered for appointment as the Director.

4B. (1) The Director shall, notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office.

Terms and conditions of service of Director.

(2) The Director shall not be transferred except with the previous consent of the Committee referred to in sub-section (1) of section 4A.

Appoint-
ment for
posts
of Joint
Director
and above,
extension
and curtail-
ment of
their tenure,
etc.

4C. (1) The Committee referred to in section 4A shall, after consulting the Director, recommend officers for appointment to the posts of the level of Joint Director and above and also recommend the extension or curtailment of the tenure of such officers in the Delhi Special Police Establishment.

(2) On receipt of the recommendation under sub-section (1), the Central Government shall pass such order as it thinks fit to give effect to the said recommendation."

Repeal and
saving.

27. (1) The Central Vigilance Commission Ordinance, 1998, and the Central Vigilance Commission (Amendment) Ordinance, 1998 are hereby repealed.

Ord.
15 of 1998.
Ord.
18 of 1998.

(2) Notwithstanding such repeal, anything done or any action taken under the Central Vigilance Commission Ordinance, 1998, as amended by the Central Vigilance Commission (Amendment) Ordinance, 1998 shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

Ord.
15 of 1998.
Ord.
18 of 1998.

THE SCHEDULE

[See section 5(3)]

Form of oath or affirmation to be made by the Central Vigilance Commissioner or Vigilance Commissioner:—

"I, A.B., having appointed Central Vigilance Commissioner (or Vigilance Commissioner) of the Central Vigilance Commission do swear in the name of God solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

K. R. NARAYANAN,
President.

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

VI-EX. 7-4.



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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 24th February, 1999.

No. RP/15/99/ORD-5/99/E.— The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 11th January, 1999 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 11th January, 1999/Pausa 21, 1920 (Saka)

**THE URBAN LAND (CEILING AND REGULATION) REPEAL
 ORDINANCE, 1999**

(No. 5 of 1999)

Promulgated by the President in the Forty-ninth Year of the Republic of India.
 An Ordinance to repeal the Urban Land (Ceiling and Regulation) Act, 1976.

WHEREAS it is considered necessary to repeal the Urban Land (Ceiling and Regulation) Act, 1976;

AND WHEREAS Parliament has no power to make laws for the States with respect to the aforesaid matter except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (2) of article 252 of the Constitution resolutions have been passed by the Legislatures of the States of Haryana and Punjab to the effect that the aforesaid Act should be repealed in those States by Parliament by law;

AND WHEREAS the Urban Land (Ceiling and Regulation) Repeal Bill, 1998 has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill with certain modifications;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Urban Land (Ceiling and Regulation) Repeal Ordinance, 1999.

(2) It applies in the first instance to the whole of the States of Haryana and Punjab and to all the Union territories; and it shall apply to such other State which adopts this Ordinance by resolution passed in that behalf under clause (2) of article 252 of the Constitution.

Short title,
 application
 and
 commence-
 ment.

(3) It shall come into force in the States of Haryana and Punjab and in all the Union territories at once and in any other State which adopts this Ordinance under clause (2) of article 252 of the Constitution on the date of such adoption; and the reference to repeal of the Urban Land (Ceiling and Regulation) Act, 1976 shall, in relation to any State or Union territory, mean the date on which this Ordinance comes into force in such State or Union territory.

Repeal of
Act 33 of
1976.

2. The Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as the principal Act) is hereby repealed.

Savings.

3. (1) The repeal of the principal Act shall not affect—

(a) the vesting of any vacant land under sub-section (3) of section 10, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority;

(b) the validity of any order granting exemption under sub-section (1) of section 20 or any action taken thereunder, notwithstanding any judgment of any court to the contrary;

(c) any payment made to the State Government as a condition for granting exemption under sub-section (1) of section 20.

(2) Where—

(a) any land is deemed to have vested in the State Government under sub-section (3) of section 10 of the principal Act but possession of which has not been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority; and

(b) any amount has been paid by the State Government with respect to such land, then such land shall not be restored unless the amount paid, if any, has been refunded to the State Government.

Abatement
of legal
proceedings.

4. All proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Ordinance, before any court, tribunal or any authority shall abate:

Provided that this section shall not apply to proceedings relating to sections 11, 12, 13 and 14 of the principal Act in so far as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority.

K. R. NARAYANAN,
President.

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 24th February, 1999.

No. RP/16/99/ORD-3/99/E.— The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 8th January, 1999 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department).

New Delhi, the 8th January, 1999 / Pausa 18, 1920 (Saka)

THE PATENTS (AMENDMENT) ORDINANCE, 1999

(No. 3 OF 1999)

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the Patents Act, 1970.

WHEREAS a Bill further to amend the Patents Act, 1970 has been passed by the Council of States and is pending in the House of the People;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Patents (Amendment) Ordinance, 1999.

(2) It shall be deemed to have come into force on the 1st day of January, 1995.

Short title
and
commence-
ment.

Amendment
of section
5.

2. Section 5 of the Patents Act, 1970 (hereinafter referred to as the principal Act) shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

39 of 1970.

"(2) Notwithstanding anything contained in sub-section (1), a claim for patent of an invention for a substance itself intended for use, or capable of being used, as medicine or drug, except the medicine or drug specified under sub-clause (v) of clause (1) of sub-section (1) of section 2, may be made and shall be dealt, without prejudice to the other provisions of this Act, in the manner provided in Chapter IVA."

Insertion of
new
Chapter
IVA.

3. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

"CHAPTER IVA

EXCLUSIVE MARKETING RIGHTS

Application
for grant of
exclusive
rights.

24A. (1) Notwithstanding anything contained in sub-section (1) of section 12, the Controller shall not, under that sub-section, refer an application in respect of a claim for a patent covered under sub-section (2) of section 5 to an examiner for making a report till the 31st day of December, 2004 and shall, where an application for grant of exclusive right to sell or distribute the article or substance in India has been made in the prescribed form and manner and on payment of prescribed fee, refer the application for patent, to an examiner for making a report to him as to whether the invention is not an invention within the meaning of this Act in terms of section 3 or the invention is an invention for which no patent can be granted in terms of section 4.

(2) Where the Controller, on receipt of a report under sub-section (1) and after such other investigation as he may deem necessary, is satisfied that the invention is not an invention within the meaning of this Act in terms of section 3 or the invention is an invention for which no patent can be granted in terms of section 4, he shall reject the application for exclusive right to sell or distribute the article or substance.

(3) In a case where an application for exclusive right to sell or distribute an article or a substance is not rejected by the Controller on receipt of a report under sub-section (1) and after such other investigation, if any, made by him, he may proceed to grant exclusive right to sell or distribute the article or substance in the manner provided in section 24B.

Explanation.—It is hereby clarified that for the purposes of this section, the exclusive right to sell or distribute any article or substance under this section shall not include an article or substance based on the system of Indian medicine as defined in clause (e) of sub-section (1) of section 2 of the Indian Medicine Central Council Act, 1970 and such article or substance is already in the public domain.

48 of 1970.

Grant of
exclusive
rights.

24B. (1) Where a claim for patent covered under sub-section (2) of section 5 has been made and the applicant has,—

(a) where an invention has been made whether in India or in a country other than India and before filing such a claim, filed an application for the same invention claiming identical article or substance in a convention country on or after the 1st day of January, 1995 and the patent and the approval to sell or distribute the article or substance on the basis of appropriate tests conducted on or after the

1st day of January, 1995, in that country has been granted on or after the date of making a claim for patent covered under sub-section (2) of section 5; or

(b) where an invention has been made in India and before filing such a claim, made a claim for patent on or after the 1st day of January, 1995 for method or process of manufacture for that invention relating to identical article or substance and has been granted in India the patent therefor on or after the date of making a claim for patent covered under sub-section (2) of section 5,

and has been received the approval to sell or distribute the article or substance from the authority specified in this behalf by the Central Government, then, he shall have the exclusive right by himself, his agents or licensees to sell or distribute in India the article or the substance on and from the date of approval granted by the Controller in this behalf till a period of five years or till the date of grant of patent or the date of rejection of application for the grant of patent, whichever is earlier.

(2) Where, the specifications of an invention relating to an article or a substance covered under sub-section (2) of section 5 have been recorded in a document or the invention has been tried or used, or, the article or the substance has been sold, by a person, before a claim for a patent of that invention is made in India or in a convention country, then, the sale or distribution of the article or substance by such person, after the claim referred to above is made, shall not be deemed to be an infringement of exclusive right to sell or distribute under sub-section (1):

Provided that nothing in this sub-section shall apply in a case where a person makes or uses an article or a substance with a view to sell or distribute the same, the details of invention relating thereto were given by a person who was holding an exclusive right to sell or distribute the article or substance.

24C. The provisions in relation to compulsory licences in Chapter XVI shall, subject to the necessary modifications, apply in relation to an exclusive right to sell or distribute under section 24B as they apply to, and in relation to, a right under a patent to sell or distribute and for that purpose the following modifications shall be deemed to have been made to the provisions of that Chapter and all their grammatical variations and cognate expressions shall be construed accordingly, namely:—

Compulsory
licences.

(a) throughout Chapter XVI,—

(i) working of the invention shall be deemed to be selling or distributing of the article or substance;

(ii) references to "patents" shall be deemed to be references to "right to sell or distribute";

(iii) references to "patented article" shall be deemed to be references to "an article for which exclusive right to sell or distribute has been granted";

(b) three years from the date of sealing of a patent in section 84 shall be deemed to be two years from the date of approval by the Controller for exclusive right to sell or distribute under section 24B;

(c) the time which has elapsed since the sealing of a patent under section 85 shall be deemed to be the time which has elapsed since the approval by the Controller for exclusive right to sell or distribute under section 24B;

(d) clauses (d) and (e) of section 90 shall be omitted.

Special provision for selling or distribution.

24D. (1) Without prejudice to the provisions of any other law for the time being in force, where, at any time after an exclusive right to sell or distribute any article or substance has been granted under sub-section (1) of section 24B, the Central Government is satisfied that it is necessary or expedient in public interest to sell or distribute the article or substance by a person other than a person to whom exclusive right has been granted under sub-section (1) of section 24, it may, by itself or through any person authorised in writing by it in this behalf, sell or distribute the article or substance.

(2) The Central Government may, by notification in the Official Gazette and at any time after an exclusive right to sell or distribute an article or a substance has been granted, direct, in the public interest and for reasons to be stated, that the said article or substance shall be sold at a price determined by an authority specified by it in this behalf.

Suits relating to infringements.

24E. All suits relating to infringement of a right under section 24B shall be dealt with in the same manner as if they are suits concerning infringement of patents under Chapter XVIII.

Central Government and its officers not to be liable.

24F. The examination and investigations required under this Chapter shall not be deemed in any way to warrant the validity of any grant of exclusive right to sell or distribute, and no liability shall be incurred by the Central Government or any officer thereof by reason of, or in connection with, any such examination or investigation or any report or other proceedings consequent thereon.

Omission of section 39.

4. Section 39 of the principal Act shall be omitted.

Amendment of section 40.

5. In section 40 of the principal Act, the words and figures "or makes or causes to be made an application for the grant of a patent outside India in contravention of section 39" shall be omitted.

Amendment of section 64.

6. In section 64 of the principal Act, in sub-section (1), in clause (n), the words and figures "or made or caused to be made an application for the grant of a patent outside India in contravention of section 39" shall be omitted.

Amendment of section 118.

7. In section 118 of the principal Act, the words and figures "or makes or causes to be made an application for the grant of a patent in contravention of section 39" shall be omitted.

Insertion of new section 157A.

8. After section 157 of the principal Act, the following section shall be inserted, namely:—

Protection of security of India.

157A. Notwithstanding anything contained in this Act, the Central Government shall—

(a) not disclose any information relating to any patentable invention or any application relating to the grant of patent under this Act, which it considers prejudicial to the interest of security of India;

(b) take action including the revocation of any patent which it considers necessary in the interest of security of India.

Provided that the Central Government shall, before taking any action under this clause, issue a notification in the Official Gazette declaring its intention to take such action.

Explanation.— For the purposes of this section, the expression "security of India" means any action necessary for the security of India which—

(i) relates to fissionable materials or the materials from which they are derived; or

(ii) relates to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment; or

(iii) is taken in time of war or other emergency in matter of international relations.

Ord. 13 of
1994.

9. (1) Anything done or any action taken under the principal Act as amended by the Patents (Amendment) Ordinance, 1994, which ceased to operate, shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Ordinance. Savings.

Ord.
13 of 1994.

(2) All applications made in respect of claims for patent of invention specified under sub-section (2) of section 5 of the principal Act, from the date of cesser of the Patents (Amendment) Ordinance, 1994 till the date on which this Ordinance is promulgated by the President (both days inclusive) shall be deemed to have been validly made as if the provisions of the principal Act, as amended by this Ordinance, had been in force at all material times.

K. R. NARAYANAN,
President.

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

VI-EX. 9-2

KUM. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 26th February, 1999

No. RP/17/99/ORD-2/99/E.— The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 7th January, 1999 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 7th January, 1999 / Pausa 17, 1920 (Saka)

THE PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) AMENDMENT ORDINANCE, 1999

(No. 2 of 1999)

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

WHEREAS the Prasar Bharati (Broadcasting Corporation of India) Amendment Bill, 1998 has been passed by the House of the People and is pending in the Council of States;

AND WHEREAS the Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1998, to give effect to the provisions of the said Bill and to make certain other amendments to the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 was promulgated by the President on the 29th day of August, 1998;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the said Ordinance;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1999.

Short title and commencement.

(2) The provisions of sections 5 and 19 shall be deemed to have come into force on the 29th day of August, 1998 and remaining provisions of this Ordinance shall be deemed to have come into force on the 6th day of May, 1998.

**Substitution
of new
section for
section 2.**

2. For section 2 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 of 1990. (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Definitions.

"2. In this Act, unless the context otherwise requires,—

(a) "Akashvani" means the offices, stations and other establishments, by whatever name called, which, immediately before the appointed day, formed part of or were under the Directorate-General, All India Radio of the Union Ministry of Information and Broadcasting;

(b) "appointed day" means the date appointed under section 3;

(c) "broadcasting" means the dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variations and cognate expressions shall be construed accordingly;

(d) "Board" means the Prasar Bharati Board;

(e) "Broadcasting Council" means the Council established under section 14;

(f) "Chairman" means the Chairman of the Corporation appointed under section 4;

(g) "Corporation" means the Prasar Bharati (Broadcasting Corporation of India) established under section 3;

(h) "Doordarshan" means the offices, kendras and other establishments, by whatever name called, which, immediately before the appointed day, formed part of or were under the Directorate-General, Doordarshan of the Union Ministry of Information and Broadcasting;

(i) "elected Member" means a Member elected under section 3;

(j) "Executive Member" means the Executive Member appointed under section 4;

(k) "kendra" means any telecasting centre with studios or transmitters or both and includes a relay station;

(l) "Member" means a Member of the Board;

(m) "Member (Finance)" means the Member (Finance) appointed under section 4;

(n) "Member (Personnel)" means the Member (Personnel) appointed under section 4;

(o) "Nominated Member" means the Member nominated by the Union Ministry of Information and Broadcasting under section 3;

(p) "Non-lapsable Fund" means the Fund created from the commercial revenues of Akashvani and Doordarshan to meet expenditure on certain schemes;

(q) "notification" means a notification published in the Official Gazette;

(r) "Part-time Member" means a Part-time Member of the Board appointed under section 4, but does not include an *ex officio* Member, the Nominated Member or an elected Member;

(s) "prescribed" means prescribed by rules made under this Act;

(t) "Recruitment Board" means a board established under sub-section (1) of section 10;

(u) "regulations" means regulations made by the Corporation under this Act;

(v) "station" means any broadcasting station with studios or transmitters or both and includes a relay station;

(w) "Whole-time Member" means the Executive Member, Member (Finance) or Member (Personnel);

(x) "year" means the financial year.

3. In section 3 of the principal Act, for sub-sections (5) and (6), the following sub-sections shall be substituted, namely:—

Amendment
of section
3.

"(5) The Board shall consist of—

(a) a Chairman;

(b) one Executive Member;

(c) one Member (Finance);

(d) one Member (Personnel);

(e) six Part-time Members;

(f) Director-General (Akashvani), *ex officio*;

(g) Director-General (Doordarshan), *ex officio*;

(h) one representative of the Union Ministry of Information and Broadcasting, to be nominated by that Ministry; and

(i) two representatives of the employees of the Corporation, of whom one shall be elected by the engineering staff from amongst themselves and one shall be elected by the other employees from amongst themselves.

(6) The Corporation may appoint such committees as may be necessary for the efficient performance, exercise and discharge of its functions, powers and duties:

Provided that all or a majority of the members of each committee shall be Members and a member of any such committee who is not a Member shall have only the right to attend meetings of the committee and take part in the proceedings thereof, but shall not have the right to vote."

Amendment
of section
4.

4. In section 4 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The Chairman and the Part-time Members shall be persons of eminence in public life; the Executive Member shall be a person having special knowledge or practical experience in respect of such matters as administration, management, broadcasting, education, literature, culture, arts, music, dramatics, or journalism; the Member (Finance) shall be a person having special knowledge or practical experience in respect of financial matters and the Member (Personnel) shall be a person having special knowledge or practical experience in respect of personnel management and administration."

Substitution
of new
section for
section 6.

5. For section 6 of the principal Act, the following section shall be substituted, namely:—

Term of
office,
conditions
of service,
etc., of
Chairman
and other
Members.

"6. (1) The Chairman shall be a Part-time Member and shall hold office for a term of six years from the date on which he enters upon his office.

(2) The Executive Member, the Member (Finance) and the Member (Personnel) shall be Whole-time Members and every such Member shall hold office for a term of six years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier:

Provided that any person holding office as a Whole-time Member immediately before the commencement of the Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1998, shall, in so far as his appointment is inconsistent with the provisions of this sub-section, cease to hold office on such commencement as such Whole-time Member and shall not be entitled to any compensation because of his ceasing to hold such office.

(3) The term of office of Part-time Members shall be six years, but one-third of such Members shall retire on the expiration of every second year:

Provided that every Part-time Member holding office as such, immediately before the commencement of the Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1998, shall, notwithstanding anything contained in this sub-section as amended by the Prasar Bharati (Broadcasting Corporation of India) Amendment Second Ordinance, 1997, retire in accordance with the provisions of sub-section (5):

Ord. 29 of
1997.

Provided further that no such Part-time Member shall be entitled to any compensation for curtailment of the term of his office under sub-section (5).

(4) The term of office of an elected Member shall be two years or till he ceases to be an employee of the Corporation, whichever is earlier.

(5) As soon as may be after the establishment of the Corporation, the President of India may, by order, make such provision as he thinks fit for curtailing the term of office of some of the Part-time Members then appointed in order that one-third of the Members holding office as such Part-time Members shall retire in every second year thereafter.

(6) Where before the expiry of the term of office of a person holding the office of Chairman, or any other Member, a vacancy arises, for any reason whatsoever, such vacancy shall be deemed to be a casual vacancy and the person appointed or

elected to fill such vacancy shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy had not arisen.

(7) In the event of the occurrence of any vacancy by reason of death, resignation or otherwise in the office of —

(a) the Executive Member, senior most among the members referred to in clauses (c) and (d) of sub-section (5) of section 3, failing which senior most among the Members referred to in clauses (f) and (g) of that sub-section, shall perform the duties of the Executive Member until the date on which a new Executive Member appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office;

(b) any other Whole-time Member, the Executive Member shall perform the duties of such Whole-time Member until the date on which a new Whole-time Member appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(8) The Central Government shall, in the case of occurrence of vacancy by reason of death, resignation or otherwise of any Whole-time Member, within two weeks from the date of occurrence of such vacancy, make a reference to the committee referred to in sub-section (1) of section 4.

(9) The Whole-time Members shall be the employees of the Corporation and as such shall be entitled to such salaries and allowances and shall be subject to such conditions of service in respect of leave, pension (if any), provident fund and other matters as may be prescribed:

Provided that the salaries and allowances and the conditions of service shall not be varied to their disadvantage after their appointment.

(10) The Chairman and Part-time Members shall be entitled to such allowances as may be prescribed."

6. In section 7 of the principal Act,—

Amendment
of section
7.

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Notwithstanding anything contained in sub-section (1), the President may, by order, remove the Chairman or any Whole-time Member from his office if such Chairman or such Whole-time Member—

(a) ceases to be a citizen of India; or

(b) is adjudged an insolvent; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is convicted of any offence involving moral turpitude; or

(e) is, in the opinion of the President, unfit to continue in office by reason of infirmity of body or mind:

Provided that the President may, by order, remove any Part-time Member from

his office if he is adjudged an insolvent or is convicted of any offence involving moral turpitude or where he is, in the opinion of the President, unfit to continue in office by reason of infirmity of body or mind.”;

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) If the Chairman or any Whole-time Member, except any *ex officio* Member, the Nominated Member or any elected Member, is, or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Corporation or the Government of India or the Government of a State or, participates in any way in the profit thereof, or in any benefit or emolument arising therefrom than as a member, and in common with other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.”.

Amendment
of section
9.

7. In section 9 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Subject to such control, restrictions and conditions as may be prescribed, the Corporation may appoint, after consultation with the Recruitment Board, the Director-General (Akashvani), the Director-General (Doordarshan) and such other officers and employees as may be necessary.”

Amendment
of section
10.

8. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Corporation shall, as soon as may be, after the appointed day and in such manner and subject to such conditions and restrictions as may be prescribed, establish for the purposes of section 9, one or more Recruitment Boards consisting wholly of persons other than the Members, officers and other employees of the Corporation:

Provided that for the purposes of appointment to the posts carrying scales of pay which are not less than that of a Joint Secretary to the Central Government, the Recruitment Board shall consist of the Chairman, other Members, the *ex officio* Members, the Nominated Member and the elected Members.”.

Amendment
of section
11.

9. In section 11 of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The provisions of sub-section (1) shall also apply to the members of the Indian Information Service, the Central Secretariat Service or any other service or to persons borne on cadres outside Akashvani and Doordarshan who have been working in Akashvani or Doordarshan immediately before the appointed day:

Provided that where any such member intimates, within the time specified in sub-section (1), his intention of not becoming an employee of the Corporation but to continue on deputation, he may be allowed to continue on deputation in accordance with such terms and conditions as may be prescribed.”;

(b) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Every officer or other employee transferred by an order made under sub-section (1) shall, within six months from the date of transfer, exercise his option, in writing, to be governed—

(a) by the scale of pay applicable to the post held by him in the Akashvani or Doordarshan immediately before the date of transfer or by the scale applicable to the post under the Corporation to which he is transferred;

(b) by the leave, provident fund, retirement or other terminal benefits admissible to employees of the Central Government in accordance with the rules or orders of the Central Government, as amended from time to time, or the leave, provident fund or other terminal benefits admissible to the employees of the Corporation under the regulations,

and such option once exercised under this Act shall be final:

Provided that the option exercised under clause (a) by an officer or other employee shall be applicable only in respect of the post under the Corporation to which such officer or other employee is transferred and on appointment to a higher post under the Corporation he shall be eligible only for the scale of pay applicable to such higher post:

Provided further that if immediately before the date of his transfer any such officer or other employee is officiating in a higher post under the Government either in a leave vacancy or any other vacancy of a specified duration, his pay on transfer shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Government to which he would have reverted or to the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt:

Provided also that when an officer or other employee serving in the Union Ministry of Information and Broadcasting or in any of its attached or subordinate offices is promoted to officiate in a higher post in the Ministry or office subsequent to the transfer to the Corporation of any other officer or employee senior to him in that Ministry or office before such transfer, the officer or other employee who is promoted to officiate in such higher post shall, on transfer to the Corporation, be entitled only to the scale of pay applicable to the post he would have held but for such promotion or the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt."

10. In section 12 of the principal Act,—

Amendment
of section
12.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Subject to the provisions of this Act, it shall be the primary duty of the Corporation to organise and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television.

Explanation.—For the removal of doubts, it is hereby declared that the provisions of this section shall be in addition to, and not in derogation of, the provisions of the Indian Telegraph Act, 1885."

13 of 1885.

(b) in sub-section (2), for clause (n), the following clause shall be substituted, namely:—

"(n) providing comprehensive broadcast coverage through the choice of appropriate technology and the best utilisation of the broadcast frequencies available and ensuring high quality reception;"

(c) in sub-section (3), for clause (c), the following clause shall be substituted, namely:—

"(c) to negotiate for purchase of, or otherwise acquire, programmes and rights or privileges in respect of sports and other events, films, serials, occasions, meetings, functions or incidents of public interest, for broadcasting and to establish procedures for the allocation of such programmes, rights or privileges to the services;"

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) For the purposes of ensuring that adequate time is made available for the promotion of the objectives set out in this section, the Central Government shall have the power to determine the maximum limit of broadcast time in respect of the advertisement;"

(e) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) The Corporation shall have power to determine and levy fees and other service charges for or in respect of the advertisements and such programmes as may be specified by regulations:

Provided that the fees and other service charges levied and collected under this sub-section shall not exceed such limits as may be determined by the Central Government, from time to time."

Insertion of
new
sections 13
to 15.

Parlia-
mentary
Committee.

11. After section 12 of the principal Act, the following sections shall be inserted, namely:—

"13. (1) There shall be constituted a Committee consisting of twenty-two Members of Parliament, of whom fifteen from the House of the People to be elected by the Members thereof and seven from the Council of States to be elected by the Members thereof in accordance with the system of proportional representation by means of the single transferable vote, to oversee that the Corporation discharges its functions in accordance with the provisions of this Act and, in particular, the objectives set out in section 12 and submit a report thereon to Parliament.

(2) The Committee shall function in accordance with such rules as may be made by the Speaker of the House of the People.

Establish-
ment of
Broad-
casting
Council,
term of
office and
removal,
etc., of
members
thereof.

14. (1) There shall be established, by notification, as soon as may be after the appointed day, a Council, to be known as the Broadcasting Council, to receive and consider complaints referred to in section 15 and to advise the Corporation in the discharge of its functions in accordance with the objectives set out in section 12.

(2) The Broadcasting Council shall consist of—

(i) a President and ten other members to be appointed by the President of India from amongst persons of eminence in public life;

(ii) four Members of Parliament, of whom two from the House of the People to be nominated by the Speaker thereof and two from the Council of States to be nominated by the Chairman thereof.

(3) The President of the Broadcasting Council shall be a whole-time member and every other member shall be a part-time member and the President or the part-time member shall hold office as such for a term of three years from the date on which he enters upon his office.

(4) The Broadcasting Council may constitute such number of Regional Councils as it may deem necessary to aid and assist the Council in the discharge of its functions.

(5) The President of the Broadcasting Council shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension (if any), provident fund and other matters as may be prescribed:

Provided that the salary and allowances and the conditions of service shall not be varied to the disadvantage of the President of the Broadcasting Council after his appointment.

(6) The other members of the Broadcasting Council and the members of the Regional Councils constituted under sub-section (4) shall be entitled to such allowances as may be prescribed.

15. (1) The Broadcasting Council shall receive and consider complaints from—

(i) any person or group of persons alleging that a certain programme or broadcast or the functioning of the Corporation in specific cases or in general is not in accordance with the objectives for which the Corporation is established;

(ii) any person (other than an officer or employee of the Corporation) claiming himself to have been treated unjustly or unfairly in any manner (including unwarranted invasion of privacy, misrepresentation, distortion or lack of objectivity) in connection with any programme broadcast by the Corporation.

Jurisdiction
of, and the
procedure
to be
followed by,
Broad-
casting
Council.

(2) A complaint under sub-section (1) shall be made in such manner and within such period as may be specified by regulations.

(3) The Broadcasting Council shall follow such procedure as it thinks fit for the disposal of complaints received by it.

(4) If the complaint is found to be justified either wholly or in part, the Broadcasting Council shall advise the Executive Member to take appropriate action.

(5) If the Executive Member is unable to accept the recommendation of the Broadcasting Council, he shall place such recommendation before the Board for its decision thereon.

(6) If the Board is also unable to accept the recommendation of the Broadcasting Council, it shall record its reasons therefor and inform the Broadcasting Council accordingly.

(7) Notwithstanding anything contained in sub-sections (5) and (6), where the Broadcasting Council deems it appropriate, it may, for reasons to be recorded in writing, require the Corporation to broadcast its recommendations with respect to a complaint in such manner as the Council may deem fit."

Amendment
of section
16.

12. In section 16 of the principal Act, for clause (a), the following clause shall be substituted, namely:—

"(a) all property and assets (including the Non-lapsable Fund) which immediately before that day vested in the Central Government for the purpose of Akashvani or Doordarshan or both shall stand transferred to the Corporation on such terms and conditions as may be determined by the Central Government and the book value of all such property and assets shall be treated as the capital provided by the Central Government to the Corporation;"

Substitution
of new
section for
section 25.

13. For section 25 of the principal Act, the following section shall be substituted, namely:—

Report to
Parliament
in certain
matters and
recommen-
dations as
to action
against the
Board.

"25. (1) Where the Board persistently makes default in complying with any directions issued under section 23 or fails to supply the information required under section 24, the Central Government may prepare a report thereof and lay it before each House of Parliament for any recommendation thereof as to any action (including supersession of the Board) which may be taken against the Board.

(2) On the recommendation of Parliament, the President may by notification supersede the Board for such period not exceeding six months, as may be specified in the notification:

Provided that before issuing the notification under this sub-section, the President shall give a reasonable opportunity to the Board to show cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(3) Upon the publication of the notification under sub-section (2),—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall, until the Board is reconstituted under this Act, be exercised and discharged by such person or persons as the President may direct.

(4) On the expiration of the period of supersession specified in the notification issued under sub-section (2), the President may reconstitute the Board by fresh appointments, and in such a case any person who had vacated his office under clause (a) of sub-section (3) shall not be disqualified for appointment:

Provided that the President may, at any time before the expiration of the period of supersession, take action under this sub-section.

(5) The Central Government shall cause the notification issued under sub-section (2) and a full report of the action taken under this section to be laid before each House of Parliament."

14. After section 25 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 26.

"26. It is hereby declared that the office of the member of the Broadcasting Council or of the Committee constituted under section 13 shall not disqualify its holder for being chosen as, or for being, a Member of either House of Parliament."

Office of member not to disqualify a Member of Parliament.

15. For sections 27 and 28 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 27 and 28.

"27. The Chairman and every other Member, officer or other employee of the Corporation and every member of a Committee thereof, the President and every member of the Broadcasting Council or every member of a Regional Council or a Recruitment Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Chairman, Members, etc., to be public servants.

28. No suit or other legal proceeding shall lie against the Corporation, the Chairman or any Member or officer or other employee thereof or the President or a member of the Broadcasting Council or a member of a Regional Council or a Recruitment Board for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or regulations made thereunder."

Protection of action taken in good faith.

16. For section 31 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 31.

"31. (1) The Corporation shall prepare once in every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities (including the recommendations and suggestions made by the Broadcasting Council and the action taken thereon) during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Annual report.

(2) The Broadcasting Council shall prepare once in every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament."

17. In section 32 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 32.

"(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salaries and allowances and conditions of service in respect of leave, pension (if any), provident fund and other matters in relation to the Whole-time Members under sub-section (9) of section 6;

(b) the allowances payable to the Chairman and Part-time Members under sub-section (10) of section 6;

(c) the control, restrictions and conditions subject to which the Corporation may appoint

officers and other employees under sub-section (f) of section 9;

(d) the manner in which and the conditions and restrictions subject to which a Recruitment Board may be established under sub-section (f) of section 10;

(e) the qualifications and other conditions of service of the members of a Recruitment Board and their period of office under sub-section (2) of section 10;

(f) the terms and conditions in accordance with which the deputation may be regulated under sub-section (2) of section 11;

(g) the salary and allowances and conditions of service in respect of leave, pension (if any), provident fund and other matters in relation to the President of the Broadcasting Council under sub-section (5) of section 14;

(h) the allowances payable to other members of the Broadcasting Council and the members of the Regional Councils under sub-section (6) of section 14;

(i) the manner in which the Corporation may invest its moneys under section 19;

(j) the form and manner in which the annual statement of accounts shall be prepared under sub-section (f) of section 21;

(k) the form in which and the time within which the Corporation and the Broadcasting Council shall prepare their annual report under section 31;

(l) any other matter which is required to be, or may be, prescribed."

Amendment
of section
33.

18. In section 33 of the principal Act, in sub-section (2),—

(i) after clause (g), the following clause shall be inserted, namely:—

"(h) the manner in which and the period within which complaints may be made under sub-section (2) of section 15;"

(ii) clause (h) shall be re-lettered as clause (i).

Repeal and
saving.

19. (1) The Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1998 is hereby repealed.

Ord.
16 of 1998.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

K. R. NARAYANAN,
President.

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 26th February, 1999.

No. RP/18/99/ORD-1/99/E.— The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 7th January, 1999 is republished for general information —

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 7th January, 1999 / Pausa 17, 1920 (Saka)

THE COMPANIES (AMENDMENT) ORDINANCE, 1999

(No. 1 of 1999)

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the Companies Act, 1956.

WHEREAS a Bill to consolidate and amend the law relating to companies and certain other associations has been introduced in Parliament and is pending consideration before the Department-related Standing Committee on Home Affairs;

AND WHEREAS the Companies (Amendment) Ordinance, 1998 was promulgated by the President on the 31st day of October, 1998;

AND WHEREAS the Companies (Amendment) Bill, 1998 was introduced in the House of the People to replace the said Ordinance, but has not been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Companies (Amendment) Bill, 1998 with certain modifications;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

- Short title and commencement.** 1. (1) This Ordinance may be called the Companies (Amendment) Ordinance, 1999.
(2) It shall be deemed to have come into force on the 31st day of October, 1998.
- Amendment of section 4A.** 2. In the Companies Act, 1956 (hereinafter referred to as the principal Act), in section 1 of 1956, 4A, in sub-section (1), after clause (v), the following clause shall be inserted, namely:—
“(vi) the Infrastructure Development Finance Company Limited, a company formed and registered under this Act.”
- Amendment of section 58A.** 3. In section 58A of the principal Act, after sub-section (10) and before the Explanation, the following sub-section shall be inserted, namely:—
“(11) A depositor may, at any time, make a nomination and the provisions of sections 109A and 109B shall, as far as may be, apply to the nomination made under this sub-section.”
- Insertion of new sections 77A, 77AA and 77B.** 4. After section 77 of the principal Act, the following sections shall be inserted, namely:—
“77A. (1) Notwithstanding anything contained in this Act, but subject to the provisions of sub-section (2) of this section and section 77B, a company may purchase its own shares or other specified securities (hereinafter referred to as “buy-back”) out of—
(i) its free reserves; or
(ii) the securities premium account; or
(iii) the proceeds of any shares or other specified securities:
Provided that no buy-back of any kind of shares or other specified securities shall be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities.
(2) No company shall purchase its own shares or other specified securities under sub-section (1) unless—
(a) the buy-back is authorised by its articles;
(b) a special resolution has been passed in general meeting of the company authorising the buy-back;
(c) the buy-back is or less than twenty-five per cent. of the total paid-up capital and free reserves of the company;

Provided that the buy-back of equity shares in any financial year shall not exceed twenty-five per cent. of its total paid-up equity capital in that financial year;

(d) the ratio of the debt owed by the company, is not more than twice the capital and its free reserves after such buy-back;

Provided that the Central Government may prescribe a higher ratio of the debt than that specified under this clause for a class or classes of companies.

Explanation.—For the purposes of this clause, the expression "debt" includes all amounts of unsecured and secured debts;

(e) all the shares or other specified securities for buy-back are fully paid-up;

(f) the buy-back of the shares or other specified securities listed on any recognised stock exchange is in accordance with the regulations made by the Securities and Exchange Board of India in this behalf;

(g) the buy-back in respect of shares or other specified securities other than those specified in clause (f) is in accordance with the guidelines as may be prescribed.

(3) The notice of the meeting at which special resolution is proposed to be passed shall be accompanied by an explanatory statement stating—

(a) a full and complete disclosure of all material facts;

(b) the necessity for the buy-back;

(c) the class of security intended to be purchased under the buy-back;

(d) the amount to be invested under the buy-back; and

(e) the time limit for completion of buy-back.

(4) Every buy-back shall be completed within twelve months from the date of passing the special resolution under clause (b) of sub-section (2).

(5) The buy-back under sub-section (1) may be—

(a) from the existing security-holders on a proportionate basis; or

(b) from the open market; or

(c) from odd lots, that is to say, where the lot of securities of a public company, whose shares are listed on a recognised stock exchange, is smaller than such marketable lot, as may be specified by the stock exchange; or

(d) by purchasing the securities issued to employees of the company pursuant to a scheme of stock option or sweat equity.

(6) Where a company has passed a special resolution under clause (b) of sub-section (2) to buy-back its own shares or other securities under this section, it shall, before making such buy-back, file with the Registrar and the Securities and Exchange Board of India a declaration of solvency in the form as may be prescribed and verified by an affidavit to the effect that the Board has made a full inquiry into the affairs of the

company as a result of which they have formed an opinion that it is capable of meeting its liabilities and will not be rendered insolvent within a period of one year of the date of declaration adopted by the Board, and signed by at least two directors of the company, one of whom shall be the managing director, if any:

Provided that no declaration of solvency shall be filed with the Securities and Exchange Board of India by a company whose shares are not listed on any recognised stock exchange.

(7) Where a company buys-back its own securities, it shall extinguish and physically destroy the securities so bought-back within seven days of the last date of completion of buy-back.

(8) Where a company completes a buy-back of its shares or other specified securities under this section, it shall not make further issue of the same kind of shares [including allotment of further shares under clause (a) of sub-section (1) of section 81] or other specified securities within a period of twenty-four months except by way of bonus issue or in the discharge of subsisting obligations such as conversion of warrants, stock option schemes, sweat equity or conversion of preference shares or debentures into equity shares.

(9) Where a company buys-back its securities under this section, it shall maintain a register of the securities so bought, the consideration paid for the securities bought-back, the date of cancellation of securities, the date of extinguishing and physically destroying of securities and such other particulars as may be prescribed.

(10) A company shall, after the completion of the buy-back under this section, file with the Registrar and the Securities and Exchange Board of India, a return containing such particulars relating to the buy-back within thirty days of such completion, as may be prescribed.

Provided that no return shall be filed with the Securities and Exchange Board of India by a company whose shares are not listed on any recognised stock exchange.

(11) If a company makes default in complying with the provisions of this section or any rules made thereunder, or any regulations made under clause (f) of sub-section (2), the company or any officer of the company who is in default shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both.

Explanation.—For the purposes of this section,—

(a) "specified securities" includes employees' stock option or other securities as may be notified by the Central Government from time to time;

(b) "free reserves" shall have the meaning assigned to it in clause (b) of *Explanation to section 372A*.

Transfer of certain sums to capital redemption reserve account.

77AA. Where a company purchases its own shares out of free reserves, then a sum equal to the nominal value of the share so purchased shall be transferred to the capital redemption reserve account referred to in clause (d) of the proviso to sub-section (1) of section 80 and details of such transfer shall be disclosed in the balance-sheet.

77B. (1) No company shall directly or indirectly purchase its own shares or other specified securities—

Prohibition
for buy-
back in
certain
circum-
stances.

(a) through any subsidiary company including its own subsidiary companies; or

(b) through any investment company or group of investment companies; or

(c) if a default, by the company, in repayment of deposit or interest payable thereon, redemption of debentures, or preference shares or payment of dividend to any shareholder or repayment of any term loan or interest payable thereon to any financial institution or bank, is subsisting.

(2) No company shall directly or indirectly purchase its own shares or other specified securities in case such company has not complied with provisions of sections 159, 207 and 211.

5. In section 78 of the principal Act, for the word "share" wherever it occurs, the word "securities" shall be substituted.

Amendment
of
section 78.

6. After section 79 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section 79A.

79A. (1) Notwithstanding anything contained in section 79, a company may issue sweat equity shares of a class of shares already issued if the following conditions are fulfilled, namely:—

Issue of
sweat
equity
shares.

(a) the issue of sweat equity shares is authorised by a special resolution passed by the company in the general meeting;

(b) the resolution specifies the number of shares, current market price, consideration, if any, and the class or classes of directors or employees to whom such equity shares are to be issued;

(c) not less than one year has, at the date of the issue elapsed since the date on which the company was entitled to commence business;

(d) the sweat equity shares of a company whose equity shares are listed on a recognised stock exchange are issued in accordance with the regulations made by the Securities and Exchange Board of India in this behalf;

Provided that in the case of a company whose equity shares are not listed on any recognised stock exchange, the sweat equity shares are issued in accordance with the guidelines as may be prescribed.

Explanation I.—For the purposes of this sub-section, the expression "a company" means company incorporated, formed and registered under this Act and includes its subsidiary company incorporated in a country outside India.

Explanation II.—For the purposes of this Act, the expression "sweat equity shares" means equity shares issued by the company to employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.

(2) All the limitations, restrictions and provisions relating to equity shares shall be applicable to such sweat equity shares issued under sub-section (1)."

Amendment
of
section 80.

7. In section 80 of the principal Act, in sub-section (1), in clause (c), for the words "share premium account", the words "security premium account" shall be substituted.

Amendment
of section
82.

8. In section 82 of the principal Act, for the word "shares", the words "shares or debentures" shall be substituted.

Insertion
of new
sections
109A and
109B.

9. After section 109 of the principal Act, the following sections shall be inserted, namely:—

Nomination
of shares.

"109A. (1) Every holder of shares in, or holder of debentures of, a company may, at any time, nominate, in the prescribed manner, a person to whom his shares in, or debentures of, the company shall vest in the event of his death.

(2) Where the shares in, or debentures of, a company are held by more than one person jointly, the joint holders may together nominate, in the prescribed manner, a person to whom all the rights in the shares or debentures of the company shall vest in the event of death of all the joint holders.

(3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such shares in, or debentures of, the company, where a nomination made in the prescribed manner purports to confer on any person the right to vest the shares in, or debentures of, the company, the nominee shall, on the death of the shareholder or holder of debentures of, the company or, as the case may be, on the death of the joint holders become entitled to all the rights in the shares or debentures of the company or, as the case may be, all the joint holders, in relation to such shares in, or debentures of the company to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(4) Where the nominee is a minor, it shall be lawful for the holder of the shares, or holder of debentures, to make the nomination to appoint, in the prescribed manner, any person to become entitled to shares in, or debentures of, the company, in the event of his death, during the minority.

Trans-
mission of
shares.

109B. (1) Any person who becomes a nominee by virtue of the provisions of section 109A, upon the production of such evidence as may be required by the Board and subject as hereinafter provided, elect, either—

(a) to be registered himself as holder of the share or debenture, as the case may be; or

(b) to make such transfer of the share or debenture, as the case may be, as the deceased shareholder or debenture holder, as the case may be, could have made.

(2) If the person being a nominee, so becoming entitled, elects to be registered as holder of the share or debenture, himself, as the case may be, he shall deliver or send

to the company a notice in writing signed by him stating that he so elects and such notice shall be accompanied with the death certificate of the deceased shareholder or debenture holder, as the case may be.

(3) All the limitations, restrictions and provisions of this Act relating to the right to transfer and the registration of transfers of shares or debentures shall be applicable to any such notice or transfer as aforesaid as if the death of the member had not occurred and the notice or transfer were a transfer signed by that shareholder or debenture holder, as the case may be.

(4) A person, being a nominee, becoming entitled to a share or debenture by reason of the death of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share or debenture except that he shall not, before being registered a member in respect of his share or debenture, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company:

Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share or debenture, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share or debenture, until the requirements of the notice have been complied with."

10. In section 205A of the principal Act,—

Amendment
of section
205A.

(a) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) Any money transferred to the unpaid dividend account of a company in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the company to the Fund established under sub-section (1) of section 205C."

(b) in sub-section (6),—

(i) for the words "general revenue account of the Central Government", the words, figures and letter "Fund established under section 205C" shall be substituted;

(ii) for the words "to such officer as the Central Government may appoint", the words "to such authority or committee as the Central Government may appoint" shall be substituted;

(c) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) The company shall be entitled to a receipt from the authority or committee under sub-section (4) of section 205C for any money transferred by it to the Fund and such a receipt shall be an effectual discharge of the company in respect thereof."

11. In section 205B of the principal Act, the following proviso shall be inserted at the end, namely:—

Amendment
of section
205B.

"Provided that nothing contained in this section shall apply to any person claiming to be entitled to any money transferred to the Fund referred to in section 205C on and after the commencement of the Companies (Amendment) Ordinance, 1999."

Insertion
of new
section
205C.

12. After section 205B of the principal Act, the following section shall be inserted, namely:—

Establish-
ment of
Investor
Education
and
Protection
Fund.

205C. (1) The Central Government shall establish a fund to be called the Investor Education and Protection Fund (hereafter in this section referred to as the "Fund").

(2) There shall be credited to the Fund the following amounts, namely:—

- (a) amounts in the unpaid dividend accounts of companies;
- (b) the application moneys received by companies for allotment of any securities and due for refund;
- (c) matured deposits with companies;
- (d) matured debentures with companies;
- (e) the interest accrued on the amounts referred to in clauses (a) to (d);
- (f) grants and donations given to the Fund by the Central Government, State Governments, companies or any other institutions for the purposes of the Fund; and
- (g) the interest or other income received out of the investments made from the Fund.

Provided that no such amounts referred to in clauses (a) to (d) shall form part of the Fund unless such amounts have remained unclaimed and unpaid for a period of seven years from the date they became due for payment.

Explanation.—For the removal of doubts, it is hereby declared that no claims shall lie against the Fund or the company in respect of individual amounts which were unclaimed and unpaid for a period of seven years from the dates that they first became due for payment and no payment shall be made in respect of any such claims.

(3) The Fund shall be utilised for promotion of investor awareness and protection of the interests of investors in accordance with such rules as may be prescribed.

(4) The Central Government shall, by notification in the Official Gazette, specify an authority or committee, with such members as the Central Government may appoint, to administer the Fund, and maintain separate accounts and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(5) It shall be competent for the authority or committee appointed under sub-section (4) to spend moneys out of the Fund for carrying out the objects for which the Fund has been established.

Insertion
of new
section
210A.

13. After section 210 of the principal Act, the following section shall be inserted, namely:—

*210A. (1) The Central Government may, by notification in the Official Gazette, constitute an Advisory Committee to be called the National Advisory Committee on Accounting Standards (hereafter in this section referred to as the "Advisory Committee") to advise the Central Government on the formulation and laying down of accounting policies and accounting standards for adoption by companies or class of companies under this Act.

Constitution
of National
Advisory
Committee
on
Accounting
Standards.

(2) The Advisory Committee shall consist of the following members, namely:—

(a) a Chairperson who shall be a person of eminence well versed in accountancy, finance, business administration, business law, economics or similar discipline;

38 of 1949.

(b) one member each nominated by the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949, the Institute of Cost and Works Accountants of India constituted under the Cost and Works Accountants Act, 1959 and the Institute of Company Secretaries of India constituted under the Company Secretaries Act, 1980;

23 of 1959.

56 of 1980.

(c) one representative of the Central Government to be nominated by it;

(d) one representative of the Reserve Bank of India to be nominated by it;

(e) one representative of the Comptroller and Auditor-General of India to be nominated by him;

(f) a person who holds or has held the office of professor in accountancy, finance or business management in any university or deemed university;

54 of 1963.

(g) the Chairman of the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 or his nominee;

(h) two members to represent the Chambers of Commerce and industry to be nominated by the Central Government; and

(i) one representative of the Securities and Exchange Board of India to be nominated by it.

(3) The Advisory Committee shall give its recommendations to the Central Government on such matters of accounting policies and standards and auditing as may be referred to it for advice from time to time.

(4) The members of the Advisory Committee shall hold office for such term as may be determined by the Central Government at the time of their appointment and any vacancy in the membership in the Committee shall be filled by the Central Government in the same manner as the member whose vacancy occurred was filled.

(5) The non-official members of the Advisory Committee shall be entitled to such fees, travelling, conveyance and other allowances as are admissible to the officers of the Central Government of the highest rank.

14. In section 211 of the principal Act, after sub-section (3), the following sub-sections shall be inserted, namely:—

Amendment
of section
211.

(3A) Every profit and loss account and balance-sheet of the company shall comply with the accounting standards.

VI-EX-11-3.

(3B) Where the profit and loss account and the balance-sheet of the company do not comply with the accounting standards, such companies shall disclose in its profit and loss account and balance-sheet, the following, namely:—

(a) the deviation from the accounting standards;

(b) the reasons for such deviation; and

(c) the financial effect, if any, arising due to such deviation.

(3C) For the purposes of this section, the expression "accounting standards" means the standards of accounting recommended by the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949; as may be prescribed by the Central Government in consultation with the National Advisory Committee on Accounting Standards established under sub-section (1) of section 210A:

38 of 1949.

Provided that the standard of accounting specified by the Institute of Chartered Accountants of India shall be deemed to be the Accounting Standards until the accounting standards are prescribed by the Central Government under this sub-section.

Amendment of section 217. 15. In section 217 of the principal Act, after sub-section (2A), the following sub-section shall be inserted, namely:—

"(2B) The Board's report shall also specify the reasons for the failure, if any, to complete the buy-back within the time specified in sub-section (4) of section 77A."

Amendment of section 227. 16. In section 227 of the principal Act, in sub-section (3),—

(b) after clause (x), the following clause shall be inserted, namely:—

"(d) whether, in his opinion, the profit and loss account and balance-sheet comply with the accounting standards referred to in sub-section (3C) of section 211."

(ii) in sub-section (4), for the word "brackets" and letter "and" the brackets, letters and word "or" and "or" shall be substituted.

Amendment of section 370. 17. In section 370 of the principal Act, after sub-section (5) and before the Explanation, the following sub-section shall be inserted, namely:—

"(6) Nothing contained in this section shall apply to a company on and after the commencement of the Companies (Amendment) Ordinance, 1999."

Amendment of section 372. 18. In section 372 of the principal Act, after sub-section (14), the following sub-section shall be inserted, namely:—

"(15) Nothing contained in this section shall apply to a company on and after the commencement of the Companies (Amendment) Ordinance, 1999."

19. After section 372 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 372A.

372A. (1) No company shall, directly or indirectly,—

Inter-corporate loans and investments.

(a) make any loan to any other body corporate;

(b) give any guarantee, or provide security, in connection with a loan made by any other person to, or to any other person by, any body corporate; and

(c) acquire, by way of subscription, purchase or otherwise the securities of any other body corporate,

exceeding sixty per cent. of its paid-up share capital and free reserves, or hundred per cent. of its free reserves, whichever is more:

Provided that where the aggregate of the loans and investments so far made, the amounts for which guarantee or security so far provided to or in all other bodies corporate, along with the investment, loan, guarantee or security proposed to be made or given by the Board, exceeds the aforesaid limits, no investment or loan shall be made or guarantee shall be given or security shall be provided unless previously authorised by a special resolution passed in a general meeting:

Provided further that the Board may give guarantee, without being previously authorised by a special resolution, if,—

(a) a resolution is passed in the meeting of the Board authorising to give guarantee in accordance with the provisions of this section;

(b) there exists exceptional circumstances which prevent the company from obtaining previous authorisation by a special resolution passed in a general meeting for giving a guarantee; and

(c) the resolution of the Board under clause (a) is confirmed within twelve months, in a general meeting of the company or the annual general meeting held immediately after passing of the Board resolution, whichever is earlier:

Provided also that the notice of such resolution shall indicate clearly the specific limits, the particulars of the body corporate in which the investment is proposed to be made or loan or security or guarantee to be given, the purpose of the investment, loan or security or guarantee, specific sources of funding and such other details.

(2) No loan or investment shall be made or guarantee or security given by the company unless the resolution sanctioning it is passed at a meeting of the Board with the consent of all the directors present at the meeting and the prior approval of the public financial institution referred to in section 4A, where any term loan is subsisting, is obtained:

Provided that prior approval of a public financial institution shall not be required where the aggregate of the loans and investments so far made, the amounts for which guarantee or security so far provided to or in all other bodies corporate, along with the investments, loans, guarantee or security proposed to be made or given does not exceed the limit of sixty per cent. specified in sub-section (1), if there is no default in repayment of loan instalments or payment of interest thereon as per the terms and conditions of such loan to the public financial institution:

Provided also that nothing contained in sub-sections (1) and (2) shall apply to—

- (a) any loan made by a holding company to its wholly owned subsidiary;
- (b) any guarantee given or any security provided by a holding company in respect of loan made to its wholly owned subsidiary; or
- (c) acquisition by a holding company, by way of subscription, purchases or otherwise, the securities of its wholly owned subsidiary.

(3) No loan to any body corporate shall be made at a rate of interest lower than the prevailing bank rate, being the standard rate made public under section 49 of the Reserve Bank of India Act, 1934.

2 of 1934.

(4) No company, which has defaulted in complying with the provision of section 58A, shall, directly or indirectly,—

- (a) make any loan to any body corporate;
- (b) give any guarantee, or provide security, in connection with a loan made by any other person to, or to any other person by, any body corporate; and
- (c) acquire, by way of subscription, purchase or otherwise the securities of any other body corporate,

till such default is subsisting.

(5) (a) Every company shall keep a register showing the following particulars in respect of every investment or loan made, guarantee given or security provided by it in relation to any body corporate under sub-section (1), namely:—

- (i) the name of the body corporate;
- (ii) the amount, terms and purpose of the investment or loan or security or guarantee;
- (iii) the date on which the investment or loan has been made; and
- (iv) the date on which the guarantee has been given or security has been provided in connection with a loan;

(b) The particulars of investment, loan, guarantee or security referred to in clause (a) shall be entered chronologically in the register aforesaid within seven days of the making of such investment or loan, or the giving of such guarantee or the provision of such security.

(6) The register referred to in sub-section (5) shall be kept at the registered office of the company concerned and—

- (a) shall be open to inspection at such office; and
- (b) extracts may be taken therefrom and copies thereof may be required,

by any member of the company to the same extent, in the same manner, and on payment of the same fees as in the case of the register of members of the company; and the provisions of section 163 shall apply accordingly.

(7) The Central Government may prescribe guidelines for the purposes of this section.

(8) Nothing contained in this section shall apply,—

(a) to any loan made, any guarantee given or any security provided or any investment made by—

(i) a banking company, or an insurance company, or a housing finance company in the ordinary course of its business, or a company established with the object of financing industrial enterprises, or of providing infrastructural facilities;

(ii) a company whose principal business is the acquisition of shares, stock, debentures or other securities;

(iii) a private company, unless it is a subsidiary of a public company;

(b) to investment made in shares allotted in pursuance of clause (a) of sub-section (1) of section 31.

(9) If default is made in complying with the provisions of this section, other than sub-section (5), the company and every officer of the company who is in default shall be punishable with imprisonment which may extend to two years or with fine which may extend to fifty thousand rupees:

Provided that where any such loan or any loan in connection with which any such guarantee or security has been given, or provided by the company, has been repaid in full, no punishment by way of imprisonment shall be imposed under this sub-section, and where such loan has been repaid in part, the maximum punishment which may be imposed under this sub-section by way of imprisonment shall be appropriately reduced:

Provided further that all persons who are knowingly parties to any such contravention shall be liable, jointly and severally, to the company for the repayment of the loan or for making good the same which the company may have been called upon to pay by virtue of the guarantee given or the securities provided by such company.

(10) If default is made in complying with the provisions of sub-section (5), the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees and also with a further fine which may extend to five hundred rupees for every day after the first during which the default continues.

Explanation.—For the purposes of this section,—

(a) "loan" includes debentures or any deposit of money made by one company with another company, not being a banking company;

(b) "free reserves" means those reserves which, as per latest audited balance-sheet of the company, are free for distribution as dividend and shall include balance to the credit of the securities premium account but shall not include share application money.

Amendment
of section
642.

20. In section 642 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Every regulation made by the Securities and Exchange Board of India under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation."

Repeal and
saving.

21. (1) The Companies (Amendment) Ordinance, 1998 is hereby repealed.

Ord.
19 of 1998.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Ordinance.

K. R. NARAYANAN,

President.

RAGHBIR SINGH,

Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat:

KUM. H. K. JHAVERI,

Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 26th February, 1999.

No. RP/19/99/ORD-6/99/E. The following Ordinance promulgated by the President and published in the Gazette of India Extra-ordinary, Part II, Section I, dated the 18th January, 1999 is republished for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 18th January, 1999/Pausa 28, 1920 (Saka)

**THE SALARIES, ALLOWANCES AND PENSION OF MEMBERS OF
 PARLIAMENT (AMENDMENT) ORDINANCE, 1999**

(No. 6 of 1999)

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Salaries, Allowances and Pension of Members of Parliament (Amendment) Ordinance, 1999.

(2) It shall come into force at once.

Short title
and com-
mencement.

Insertion of new
section 8AA.

Travel facility to
ex-members.

2. After section 8A of the Salary, Allowances and Pension of Members of Parliament Act, 1954, the following section shall be inserted, namely:—

30 of 1954.

"8AA. With effect from the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Ordinance, 1999, every person who is not a sitting member but has served for any period as a member of either House of Parliament shall be entitled along with a companion to travel in any train by any railway in India in air-conditioned two-tier class without payment of any charges on the basis of an authorisation issued for this purpose by the Secretariat of either House of Parliament, as the case may be."

K. R. NARAYANAN,

President.

RAGHBIR SINGH,

Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st March, 1999.

No. RP/13/99/ORD-20/98/E.— The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 31st December 1998 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 31st December, 1998/Pausa 10, 1920 (Saka)

THE FINANCE (NO. 2) AMENDMENT ORDINANCE, 1998

No. 20 of 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance to amend the Finance (No.2) Act, 1998.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Finance (No.2) Amendment Ordinance, 1998.

(2) It shall come into force at once.

Short title
and com-
mencement.

Amendment
of section
88.

2. In the Finance (No. 2) Act, 1998, (hereinafter referred to as the principal Act), in section 88, in the opening paragraph, for the words, figures and letters "before the 31st day of December, 1998", the words, figures and letters "before the 31st day of January, 1999" shall be substituted.

Amendment
of section
90.

3. In section 90 of the principal Act, in sub-section (1), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that in a case where the declaration is made on or after the 1st day of January, 1999, the provisions of this sub-section shall have effect as if for the words "within sixty days", the words "within thirty days" had been substituted."

K. R. NARAYANAN,

President.

RAGHBIR SINGH,

Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat.

KUM. H. K. JHAVERI,

Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20th March, 1999.

No. RP/22/99/Act-29/98/E.—The following Act of Parliament is
 re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 21st December, 1998/Agrahayana 30, 1920 (Saka).

The following Act of Parliament received the assent of the President on the
 18th December, 1998 and is hereby published for general information :

**THE OILFIELDS (REGULATION AND DEVELOPMENT)
 AMENDMENT ACT, 1998.**

(Act No. 29 of 1998)

(18th December, 1998)

AN ACT

further to amend the Oilfields (Regulation and Development) Act, 1948.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Oilfields (Regulation and Development) Amendment
 Act, 1998.

Short title and
 commence-
 ment.

(2) It shall be deemed to have come into force on the 3rd day of September, 1998.

Amendment of
section 6A.

2. In section 6A of the Oilfields (Regulation and Development) Act, 1948 (hereinafter referred to as the principal Act), for sub-sections (4) and (5), the following sub-sections shall be substituted, namely:—

53 of 1948.

"(4) The Central Government may, by notification in the Official Gazette, amend the Schedule so as to enhance or reduce the rate at which royalty shall be payable in respect of any mineral oil with effect from such date as may be specified in the notification and different rates may be notified in respect of same mineral oil mined, quarried, excavated or collected from the areas covered by different classes of mining leases:

Provided that the Central Government shall not fix the rates of royalty in respect of any mineral oil so as to exceed twenty per cent. of the sale price of the mineral oil at the oilfields or the oil well-head, as the case may be.

(5) If the Central Government, with a view to encourage exploration in off-shore areas, is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally, either absolutely or subject to such conditions as may be specified in the notification, mineral oil produced from such areas from the whole or any part of the royalty leviable thereon."

Amendment of
section 10.

3. In section 10 of the principal Act, for the words, brackets, figures and letter "under sub-section (4) of section 6A", the words, brackets, figures and letter "under sub-section (4) or sub-section (5) of section 6A" shall be substituted.

Repeal and
saving.

4. (1) The Oilfields (Regulation and Development) Amendment Ordinance, 1998 is hereby repealed.

Ord. 17 of
1998.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Dr. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar 8th April, 1999.

No. RP/37/99/Act-11/98/E.—The following Act of Parliament is re-published for general information: —

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 23rd June, 1998/Asadha 2, 1920 (Saka).

The following Act of Parliament received the assent of the President on the 22nd June, 1998 and is hereby published for general information :

THE PAYMENT OF GRATUITY (AMENDMENT) ACT, 1998

(Act No. 11 OF 1998)

(22nd June, 1998)

An Act further to amend the Payment of Gratuity Act, 1972.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Payment of Gratuity (Amendment) Act, 1998. Short title and commencement.

(2) It shall be deemed to have come into force on the 24th day of September, 1997.

Amendment
of section 4
of Act 39 of
1972.

2. In section 4 of the Payment of Gratuity Act, 1972 (hereinafter referred to as the principal Act), in sub-section (3), for the words "one lakh", the words "three lakhs and fifty thousand" shall be substituted.

Repeal and
saving.

3. (1) The Payment of Gratuity (Amendment) Ordinance, 1998 is hereby ^{Ord. 10 of 1998.} repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat.

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 8th April, 1999.

No. RP/41/99/Act-16/98/E.—The following Act of Parliament is re-
 published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 7th July, 1998/Asadha 16, 1920 (Saka).

The following Act of Parliament received the assent of the President on the
 7th July, 1998 and is hereby published for general information :

THE FINANCE (AMENDMENT) ACT, 1998.

† (Act No. 16 of 1998)

(7th July, 1998)

An Act further to amend the Finance Act, 1979 and the Finance (No. 2) Act,
 1996.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as
 follows:—

1. (1) This Act may be called the Finance (Amendment) Act, 1998.

(2) It shall be deemed to have come into force on the 16th day of September, 1997.

2. In sub-section (1) of section 35 of the Finance Act, 1979, for clause (i), the following
 clause shall be substituted, namely:—

“(i) for every such journey to any place outside India other than a place in a
 neighbouring country—

(a) at the rate of seven hundred and fifty rupees on or after the 26th day of
 September, 1997 but before the 1st day of January, 1998;

(b) at the rate of five hundred rupees on or after the 1st day of January,
 1998;”

Short title
 and com-
 mencement.

Amendment of
 Act 21 of
 1979.

Amendment of
Act 33 of 1996.

3. In section 68 of the Finance (No. 2) Act, 1996—

(a) in sub-section (1), for the words "two per cent.", the words "five per cent." shall be substituted;

(b) to sub-section (1) as so amended, the following proviso shall be added, namely:—

Provided that in the case of goods falling under heading Nos. 27.09 to 27.15 and heading No. 98.01 of the said First Schedule, the provisions of this sub-section shall have effect as if for the words "five per cent." the words "two per cent." had been substituted.

Repeal and
Saving.

4. (1) The Finance (Amendment) Ordinance, 1998 is hereby repealed.

Ord. 5 of
1998.

(2) Notwithstanding such repeal, anything done or any action taken under the Finance Act, 1979 or the Finance (No. 2) Act, 1996 as amended by the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of the Finance Act, 1979 or, as the case may be, the Finance (No. 2) Act, 1996, as amended by this Act.

Dr. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 8th April, 1999.

No. RP/42/99/Act-17/98/E —The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 7th July, 1998/Asadha 16, 1920 (Saka).

The following Act of Parliament received the assent of the President on the 7th July, 1998 and is hereby published for general information :

THE LOTTERIES (REGULATION) ACT, 1998.

(Act No. 17 of 1998)

(7th July, 1998)

An Act to regulate the lotteries and to provide for matters connected therewith and incidental thereto.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Lotteries (Regulation) Act, 1998.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 2nd day of October, 1997.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "bumper draw of a lottery" means a special draw of lottery conducted on or during any festival or other special occasion wherein the prize money offered is greater than the prize money offered in the case of other ordinary draw of lotteries;

(b) "lottery" means a scheme, in whatever form and by whatever name called, for distribution of prizes by lot or chance to those persons participating in the chances of a prize by purchasing tickets;

(c) "prescribed" means prescribed by rules made under this Act.

3. Save as otherwise provided in section 4, no State Government shall organise, conduct or promote any lottery.

Short title, extent and commencement.

Definitions.

Prohibition of lotteries.

Conditions subject to which Lotteries may be organised, etc.

4. A State Government may organise, conduct or promote a lottery, subject to the following conditions, namely:—

(a) prizes shall not be offered on any pre-announced number or on the basis of a single digit;

(b) the State Government shall print the lottery tickets bearing the imprint and logo of the State in such manner that the authenticity of the lottery ticket is ensured;

(c) the State Government shall sell the tickets either itself or through distributors or selling agents;

(d) the proceeds of the sale of lottery tickets shall be credited into the public account of the State;

(e) the State Government itself shall conduct the draws of all the lotteries;

(f) the prize money unclaimed within such time as may be prescribed by the State Government or not otherwise distributed, shall become the property of that Government;

(g) the place of draw shall be located within the State concerned;

(h) no lottery shall have more than one draw in a week;

(i) the draws of all kinds of lotteries shall be conducted between such period of the day as may be prescribed by the State Government;

(j) the number of bumper draws of a lottery shall not be more than six in a calendar year;

(k) such other conditions as may be prescribed by the Central Government.

Prohibition of Sale of ticket in a State.

5. A State Government may, within the State, prohibit the sale of tickets of a lottery organised, conducted or promoted by every other State.

Prohibition of organisation, etc of lottery.

6. The Central Government may, by order published in the Official Gazette, prohibit a lottery organised, conducted or promoted in contravention of the provisions of section 4 or where tickets of such lottery are sold in contravention of the provisions of section 5.

Penalty.

7. (1) Where a lottery is organised, conducted or promoted after the date on which this Act receives the assent of the President, in contravention of the provisions of this Act, by any Department of the State Government, the Head of the Department shall be punishable with rigorous imprisonment for a term which may extend to two years or with fine or with both:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the contravention was committed without his knowledge or that he exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention under this Act has been committed by a Department of Government and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that contravention and shall be liable to be proceeded against and punished accordingly.

(3) If any person acts as an agent or promoter or trader in any lottery organised, conducted or promoted in contravention of the provisions of this Act or sells, distributes or purchases the ticket of such lottery, he shall be punishable with rigorous imprisonment for a term which may extend to two years or with fine or with both.

8. The offence under this Act shall be cognizable and non-bailable.

(Offences to be
cognizable and
non-bailable.
Offences by
companies.

9. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

10. The Central Government may give directions to the State Government as to carrying into execution in the State of any of the provisions of this Act or of any rule or order made thereunder.

Power to give
directions.

11. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power of Cen-
tral Govern-
ment to make
rules.

(2) Every rule made by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

12. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power of State
Government to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) time to be fixed for claiming prize money under clause (f) of section 4;

(b) period to be fixed for draws of all lotteries under clause (i) of section 4; and

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Repeal and
Saying

13: (1) The Lotteries (Regulation) Ordinance, 1998 is hereby repealed.

Ord. No. 1998

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Dr. RAGHBIR SINGH
Secretary to the Government of India

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI
Secretary to Government



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 8th April, 1999.

No. RP/43/99/Act-18/98/E.—The following Act of Parliament is re-
 published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 7th July, 1998/Asadha 16, 1920 (Saka).

The following Act of Parliament received the assent of the President on the
 7th July, 1998 and is hereby published for general information :

**THE HIGH COURT AND SUPREME COURT JUDGES (CONDITIONS OF
 SERVICE) AMENDMENT ACT, 1998.**

(Act No. 18 of 1998)

(7th July, 1998)

An Act further to amend the High Court Judges (Conditions of Service) Act,
 1954 and the Supreme Court Judges (Conditions of Service) Act,
 1958.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as
 follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the High Court and Supreme Court Judges (Conditions
 of Service) Amendment Act, 1998.

(2) It shall be deemed to have come into force on the 1st day of January, 1996.

Short title and
 commence-
 ment.

CHAPTER II

AMENDMENT OF THE HIGH COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1954

Amendment
of long title.

2. In the long title to the High Court Judges (Conditions of Service) Act, 1954 28 of 1954, (hereinafter referred to as the High Court Judges Act), for the words "certain conditions of service", the words "salaries and certain conditions of service" shall be substituted.

Amendment
of section 1.

3. In section 1 of the High Court Judges Act, for the brackets and words "(Conditions of Service)", the brackets and words "(Salaries and Conditions of Service)" shall be substituted.

Amendment
of Chapter III.

4. In Chapter III of the High Court Judges Act,—

(a) for the heading "PENSIONS", the heading "SALARIES AND PENSIONS" shall be substituted; and

(b) after the heading as so substituted and before section 14, the following section shall be inserted, namely:—

Salaries of
the Judges.

"13A. (1) There shall be paid to the Chief Justice of a High Court, by way of salary, thirty thousand rupees per mensem.

(2) There shall be paid to a Judge of a High Court, by way of salary, twenty-six thousand rupees per mensem."

CHAPTER III

AMENDMENT OF THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1958

Amendment
of long title.

5. In the long title to the Supreme Court Judges (Conditions of Service) Act, 1958 41 of 1958, (hereinafter referred to as the Supreme Court Judges Act), for the words "certain conditions of service", the words "salaries and certain conditions of service" shall be substituted.

Amendment
of section 1.

6. In section 1 of the Supreme Court Judges Act, for the brackets and words "(Conditions of Service)", the brackets and words "(Salaries and Conditions of Service)" shall be substituted.

Amendment
of Chapter III.

7. In Chapter III of the Supreme Court Judges Act,—

(a) for the heading "PENSIONS", the heading "SALARIES AND PENSIONS" shall be substituted; and

(b) after the heading as so substituted and before section 13, the following section shall be inserted, namely:—

Salaries of the
Judges.

"12A. (1) There shall be paid to the Chief Justice of India, by way of salary, thirty-three thousand rupees per mensem.

(2) There shall be paid to a Judge of the Supreme Court, by way of salary, thirty thousand rupees per mensem."

CHAPTER IV

TRANSITIONAL PROVISION

Arrears.

8. The difference of salary payable to a Judge of a High Court under the High Court Judges Act or a Judge of the Supreme Court under the Supreme Court Judges Act, as amended by this Act, and salary payable to such Judge but for this Act, shall be paid in two instalments, the first instalment being five thousand rupees plus fifty per cent. of the balance of such difference to be paid as early as may be practicable, and the second instalment to be paid within such period as may be decided by the Central Government.

Ord. 11 of
1998.

9. (1) The High Court and Supreme Court Judges (Conditions of Service) Amendment Ordinance, 1998 is hereby repealed.

Repeal and
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the High Court Judges Act and the Supreme Court Judges Act, as amended by the said Ordinance shall be deemed to have been done or taken under the High Court Judges Act and the Supreme Court Judges Act, as amended by this Act.

Dr. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 15th April, 1999.

No. RP/35/99/Act-9/98/E.—The following Act of Parliament is re-
 published for general information :

GOVERNMENT OF INDIA**MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS**

(Legislative Department)

New Delhi, the 23rd June, 1998/Asadha 2, 1920 (Saka)

The following Act of Parliament received the assent of the President on the 22nd
 June, 1998, and is hereby published for general information:—

THE MERCHANT SHIPPING (AMENDMENT) ACT, 1998

(No. 9 of 1998)

(22nd June, 1998)

An Act further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as
 follows:—

1. (1) This Act may be called the Merchant Shipping (Amendment) Act, 1998.

Short title and
 commence-
 ment.

(2) It shall be deemed to have come into force on the 26th day of September, 1997.

44 of 1953.

2. In section 89 of the Merchant Shipping Act, 1958 (hereinafter referred to as the
 principal Act), after clause (d), the following clause shall be inserted, namely:—

Amendment of
 section 89.

"(dd) to transmit the complaint of any dispute of a foreign seaman of a vessel,
 registered in a country other than India, in Indian territorial waters, with the master,
 owner or agent, to the competent authority of the country of registration and a copy
 of such complaint shall be forwarded to the Director General, International Labour
 Organisation Office;"

Amendment of
section 132.

3. In section 132 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Any complaint of dispute received by the shipping master from an Indian seaman, on a vessel registered in a country other than India, in Indian territorial waters, with the master, owner or agent."

Insertion of new
section 138A.

4. After section 138 of the principal Act, the following section shall be inserted, namely:—

Working hours
of seamen.

"138A. The ordinary hours of work for all seamen shall not exceed forty-eight hours in a week."

Amendment of
section 369.

5. In section 369 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The Central Government shall, on receipt of the investigation report from the court, cause it to be published in the Official Gazette."

Amendment of
section 436.

6. In section 436 of the principal Act, in sub-section (2), in the table, after serial number 42 and the entries relating thereto, the following shall be inserted, namely:—

42A	If the master or owner contravenes the provisions of section 138A	138A	Fine which may extend to double the average wages per hour payable to the seaman for working beyond forty-eight hours"
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Repeal and
saving.

7. (1) The Merchant Shipping (Amendment) Ordinance, 1998, is hereby repealed.

Ord. 7 of 1998.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/—

RAGHBIR SINGH,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 15th April, 1999.

No. RP/36/99/Act-10/98/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 23rd June, 1998/Asadha 2, 1920 (Saka)

The following Act of Parliament received the assent of the President on the 22nd June, 1998, and is hereby published for general information:—

THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS (AMENDMENT) ACT, 1998

(No. 10 of 1998)

(22nd June, 1998)

An Act further to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 1998.

Short title and commencement.

(2) It shall be deemed to have come into force on the 22nd day of September, 1997.

2. In section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the principal Act), for the words "eight and one-third per cent." and "ten per cent.", wherever they occur, the words "ten per cent." and "twelve per cent." shall respectively be substituted.

Amendment of section 6.

19 of 1952.

Amendment of
section 7D.

3. In section 7D of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) A person shall not be qualified for appointment as a Presiding Officer of a Tribunal (hereinafter referred to as the Presiding Officer) unless he is, or has been, or is qualified to be,—

- (i) a Judge of a High Court; or
- (ii) a District Judge."

Amendment of
section 7F.

4. Section 7F of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

"(2) The Presiding Officer shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the High Court in which such Presiding Officer had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Presiding Officer."

Amendment of
section 16.

5. In section 16 of the principal Act, in sub-section (1),—

- (i) in clause (c), the word "or" occurring at the end shall be omitted;
- (ii) clause (d) and the *Explanation* thereto shall be omitted.

Repeal and
saving.

6. (1) The Employees' Provident Funds and Miscellaneous Provisions (Amendment) Ordinance, 1998 is hereby repealed.

Ord. 8
of 1998.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd/—

RAGHBIR SINGH,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 15th April, 1999.

No. RP/38/99/Act-12/98/E.—The following Act of Parliament is
 re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
 (Legislative Department)

New Delhi, the 23rd June, 1998/Asadha 2, 1920 (Saka)

The following Act of Parliament received the assent of the President on the 22nd
 June, 1998, and is hereby published for general information:—

**THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
 ACT, 1998**

(No. 12 of 1998)

(22nd June, 1998)

An Act further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as
 follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act,
 1998.

(2) It shall be deemed to have come into force on the 23rd day of December, 1997.

2. For section 159 of the Representation of the People Act, 1951 (hereinafter referred
 to as the principal Act), the following section shall be substituted, namely:—

"159. (1) The authorities specified in sub-section (2) shall, when so requested
 by a Regional Commissioner appointed under clause (4) of article 324 or the Chief
 Electoral Officer of the State, make available to any returning officer such staff as
 may be necessary for the performance of any duties in connection with an election.

Short title and
 commencement.

Substitution
 of new
 section for
 section 159
 of Act
 43 of 1951.

Staff of
 certain
 authorities to
 be made
 available for
 election work.

(2) The following shall be the authorities for the purposes of sub-section (1), namely:—

- (i) every local authority;
- (ii) every university established or incorporated by or under a Central, Provincial or State Act;
- (iii) a Government company as defined in section 617 of the Companies Act, 1956;
- (iv) any other institution, concern or undertaking which is established by or under a Central, Provincial or State Act or which is controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government."

1 of 1956.

Repeal and
saving.

3. (1) The Representation of the People (Amendment) Ordinance, 1998, is hereby repealed.

Ord.
12 of 1998.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd/—

RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 15th April, 1999.

No. RP/39/99/Act-13/98/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 26th June, 1998/Asadha 5, 1920 (Saka)

The following Act of Parliament received the assent of the President on the 26th June, 1998, and is hereby published for general information:—

THE NATIONAL INSTITUTE OF PHARMACEUTICAL EDUCATION AND RESEARCH ACT, 1998

(No. 13 of 1998)

(26th June, 1998)

An Act to declare the institution known as the National Institute of Pharmaceutical Education and Research to be an institution of national importance and to provide for its incorporation and matters connected therewith.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Institute of Pharmaceutical Education and Research Act, 1998.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Short title and
commence-
ment.

Declaration of
National
Institute of
Pharmaceutical
Education and
Research as an
institution of
national
importance.

2. Whereas the objects of the institution known as the National Institute of Pharmaceutical Education and Research, Sector-67, S.A.S. Nagar (Mohali), District Ropar, Punjab are such as to make the institution one of national importance, it is hereby declared that the institution known as the National Institute of Pharmaceutical Education and Research is an institution of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date of establishment of the National Institute of Pharmaceutical Education and Research under sub-section (1) of section 4;

(b) "Board" means the Board of Governors of the Institute constituted under sub-section (3) of section 4;

(c) "Chairperson" means the Chairperson of the Institute nominated under clause (a) of sub-section (3) of section 4;

(d) "Dean" means the Dean of the Institute appointed under section 17;

(e) "Director" means the Director of the Institute appointed under section 16;

(f) "Fund" means the Fund of the Institute to be maintained under section 21;

(g) "Institute" means the National Institute of Pharmaceutical Education and Research established under sub-section (1) of section 4;

(h) "Senate" means the Senate of the Institute referred to in section 13;

(i) "Society" means the National Institute of Pharmaceutical Education and Research Society, Sector-67, S.A.S. Nagar (Mohali), District Ropar, Punjab registered under the Societies Registration Act, 1860;

(j) "Statutes" and "Ordinances" mean the Statutes and the Ordinances of the Institute made under this Act.

21 of 1860.

CHAPTER II

THE INSTITUTE

Establishment
of Institute.

4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, the National Institute of Pharmaceutical Education and Research shall be constituted as a body corporate by the name aforesaid.

(2) The Institute shall have perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and shall, by that name, sue and be sued.

(3) The Institute shall consist of the Board of Governors having the following persons, namely:—

(a) a Chairperson, who shall be an eminent academician, scientist or technologist or professional, to be nominated by the Visitor;

(b) the Director of the Institute, *ex officio*;

(c) the Joint Secretary, incharge of Pharmaceutical Industries in the concerned Ministry or Department of the Government of India, *ex officio*;

(d) the Secretary, Technical Education, Government of Punjab, Chandigarh, *ex officio*;

- (e) the Financial Adviser of the Ministry or Department of the Government of India dealing with the pharmaceutical industries, *ex officio*;
- (f) the Drug Controller General of India, Ministry of Health and Family Welfare of the Government of India, *ex officio*;
- (g) the Member Secretary, All-India Council for Technical Education, *ex officio*;
- (h) the Director of any one of the national laboratories of the Council of Scientific and Industrial Research to be nominated by the Director General of Council of Scientific and Industrial Research, New Delhi;
- (i) the Director of either the All-India Institute of Medical Sciences, New Delhi or the Post-Graduate Institute of Medical Education and Research, Chandigarh, to be nominated by rotation by the Ministry of Health and Family Welfare of the Government of India;
- (j) the President, Indian Drugs Manufacturers' Association, *ex officio*;
- (k) the President, Organisation of Pharmaceutical Producers of India, *ex officio*;
- (l) three eminent pharmaceutical experts, one of whom shall be an educationist, a research scientist and a biotechnologist, to be nominated by the Central Government;
- (m) three eminent public persons or social workers one of whom shall be either from the Scheduled Castes or the Scheduled Tribes to be nominated by the Visitor out of a panel prepared by the Central Government;
- (n) two pharmaceutical industrialists to be nominated by the Visitor out of a panel prepared by the Central Government;
- (o) three Members of Parliament, two from Lok Sabha to be nominated by the Speaker of Lok Sabha and one from Rajya Sabha to be nominated by the Chairman of Rajya Sabha.
- (4) The term of office of the Chairperson and Governors other than *ex officio* Governors shall be three years and they shall be entitled for such allowances as may be determined by the Central Government.
- (5) The term of office of Governor nominated to fill a casual vacancy shall continue for the remainder of the term of the Governor in whose place he has been nominated.
- (6) The Board shall meet at least three times in a year at such place and time and observe such rules of procedure in regard to the transaction of business at its meetings as may be determined by the Board.
5. On and from the appointed day, subject to the other provisions of this Act, all properties which had vested in the Society, immediately before the commencement of this Act, shall, on and from such commencement, vest in the Institute.
6. On and from the appointed day,—
- (a) any reference to the Society in any contract or other instrument shall be deemed as a reference to the Institute;
- (b) all the rights and liabilities of the Society shall be transferred to, and be the rights and liabilities of, the Institute; and
- (c) every person employed by the Society immediately before the appointed day shall hold office or service in the Institute by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if this Act had not been passed, and shall continue to be so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Vesting of properties.

Effect of incorporation of Institute.

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute of compensation equivalent to three months' remuneration in the case of permanent employee and one month's remuneration in the case of other employee.

**Functions of
Institute.**

7. The functions of the Institute shall be—

- (i) to nurture and promote quality and excellence in pharmaceutical education and research;
- (ii) to concentrate on courses leading to master's degree, doctoral and post-doctoral courses and research in pharmaceutical education;
- (iii) to hold examinations and grant degrees;
- (iv) to confer honorary awards or other distinctions;
- (v) to cooperate with educational or other institutions having objects wholly or partly similar to those of the Institute by exchange of faculty members and scholars and generally in such manner as may be conducive to their common objective;
- (vi) to conduct courses for teachers, pharmaceutical technologists, community and hospital pharmacists and other professionals;
- (vii) to collect and maintain world literature on pharmaceutical and related sciences and technology so as to develop an information centre of its own kind for other institutions within the country and in the developing world;
- (viii) to create a central faculty of pharmaceutical instrumentation and analysis for use by the researchers within and outside the Institute;
- (ix) to have a centre to experiment and innovate and to train teachers and other workers in the art or science of pharmaceutical teaching;
- (x) to develop a world level centre for creation of new knowledge and transmission of existing information in pharmaceutical areas, with focus on national, educational, professional and industrial commitments;
- (xi) to develop a multi-disciplinary approach in carrying out research and training of pharmaceutical manpower so that the larger interests of the profession, academia and pharmaceutical industry are better served and a pharmaceutical work culture is evolved which is in tune with the changing world trends and patterns of pharmaceutical education and research;
- (xii) to organise national or international symposia, seminars and conferences in selected areas of pharmaceutical education, from time to time;
- (xiii) to arrange courses catering to the special needs of the developing countries;
- (xiv) to act as a nucleus for interaction between academic and industry by encouraging exchange of scientist and other technical staff between the Institute and the industry and by undertaking sponsored and funded research as well as consultancy projects by the Institute; and
- (xv) to pay due attention to studies on the distribution and usage of drugs by the rural masses, taking into account the socio-economic spectrum in the country.

**Powers of
Board.**

8. (1) Subject to the provisions of this Act, the Board shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall exercise all the powers not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Senate.

(2) Without prejudice to the provisions of sub-section (1), the Board shall—

(a) take decisions on questions of policy relating to the administration and working of the Institute;

(b) fix, demand and receive fees and other charges;

(c) supervise and control the residence and regulate the discipline of students of the Institute and to make arrangements for promoting their health, general welfare and cultural and corporate life;

(d) institute academic and other posts and to make appointments thereto (except in the case of the Director);

(e) frame Statutes and Ordinances and to alter, modify or rescind the same;

(f) institute and award fellowship, scholarship, prizes and medals;

(g) consider and pass resolutions on the annual report, the annual accounts and the budget estimates of the Institute for the next financial year as it thinks fit together with a statement of its development plans; and

(h) do all such things as may be necessary, incidental or conducive to the attainment of all or any of the aforesaid powers.

(3) The Board shall have the power to appoint such committees as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

(4) Notwithstanding anything contained in sub-section (2) of section 4, the Board shall not dispose of in any manner any immovable property without the prior approval of the Central Government.

9. (1) The Institute shall be open to persons of either sex and of whatever race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting or appointing members, students, teachers or workers or in any other connection whatsoever.

Institute to be open to all races, creeds and classes.

(2) No bequest, donation or transfer of any property shall be accepted by the Institute which in the opinion of the Board involves conditions or obligations opposed to the spirit and object of this section.

10. All teaching at the Institute shall be conducted by or in the name of the Institute in accordance with the Statutes and the Ordinances made in this behalf.

Teaching at Institute.

11. (1) The President of India shall be the Visitor of the Institute.

Visitor.

(2) The Visitor may appoint one or more persons to review the work and progress of the Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(3) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions.

12. The following shall be the other authorities of the Institute, namely:—

Authorities of Institute.

(a) a Senate;

(b) such other authorities as may be declared by the Statutes to be the authorities of the Institute.

13. The Senate of the Institute shall consist of the following persons, namely:—

Senate.

(a) the Director, *ex officio*, who shall be the Chairperson of the Senate;

(b) the Dean, *ex officio*;

(c) five professors of the Institute, to be nominated by the Chairperson in consultation with the Director, by rotation;

(d) three persons, not being employees of the Institute, to be nominated by the Chairperson in consultation with the Director, from among educationists of repute, one each from the fields of science, engineering and humanities and one of them shall be either from the Scheduled Castes or from the Scheduled Tribes; and

(e) such other members of the staff as may be laid down in the Statutes.

Functions of
Senate.

14. Subject to the provisions of this Act, the Statutes and the Ordinances, the Senate of the Institute shall have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examination in the Institute and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes.

Functions,
powers and
duties of
Chairperson.

15. (1) The Chairperson shall ordinarily preside at the meetings of the Board and at the Convocations of the Institute.

(2) It shall be the duty of the Chairperson to ensure that the decisions taken by the Board are implemented.

(3) The Chairperson shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes.

Director.

16. (1) The Director of the Institute shall be appointed by the Board with the prior approval of the Visitor.

(2) The Director shall be the principal academic and executive officer of the Institute and shall be responsible for the proper administration and academic performance of the Institute and for imparting of instruction and maintenance of discipline therein.

(3) The Director shall submit annual reports and accounts to the Board.

(4) The Director shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or the Ordinances.

Dean.

17. (1) The Dean of the Institute shall be appointed on such terms and conditions as may be laid down by the Statutes and shall exercise such powers and perform such duties as may be assigned to him by this Act or the Statutes or the Director.

(2) The Dean shall report to the Director.

Registrar.

18. (1) The Registrar of the Institute shall be appointed on such terms and conditions as may be laid down by the Statutes and shall be the custodian of records, the common seal, the funds of the Institute and such other property of the Institute as the Board shall commit to his charge.

(2) The Registrar shall act as the Secretary of the Board, the Senate and such committees as may be prescribed by the Statutes.

(3) The Registrar shall be responsible to the Director for the proper discharge of his functions.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or the Director.

Powers and
duties of other
authorities and
officers.

19. The powers and duties of authorities and officers, other than those hereinbefore mentioned, shall be determined by the Statutes.

Grants by
Central
Government.

20. For the purpose of enabling the Institute to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Institute in each financial year such sums of money and in such manner as it may think fit.

Fund of
Institute.

21. (1) The Institute shall maintain a Fund to which shall be credited—

(a) all moneys provided by the Central Government;

(b) all fees and other charges;

(c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and

(d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

(3) The Fund shall be applied towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

22. Notwithstanding anything contained in section 21, the Central Government may direct the Institute to—

Setting up of
endowment
fund.

(a) set up an endowment fund and any other fund for specified purpose;

(b) transfer money from its Fund to endowment fund or any other fund.

23. (1) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance-sheet, in such form as may be specified, in accordance with such general directions as may be issued by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and
audit.

(2) The accounts of the Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute.

(4) The accounts of the Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

24. (1) The Institute shall constitute, for the benefit of its employees, including the Director, in such manner and subject to such conditions as may be prescribed by the Statutes, such pension, insurance and provident funds as it may deem fit.

Pension and
provident
fund.

(2) Where any such provident fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government provident fund.

19 of 1925.

25. All appointments of the staff of the Institute, except that of the Director, shall be made in accordance with the procedure laid down in the Statutes—

Appointments.

(a) by the Board, if the appointment is made on the academic staff in the post of Assistant Professor or above or if the appointment is made on the non-academic staff in any cadre, the maximum of the pay-scale for which is the same or higher than that of Assistant Professor; and

(b) by the Director, in any other case.

26. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

Statutes.

(a) the formation of departments of teaching;

(b) the institution of fellowships, scholarships, exhibitions, medals and prizes;

(c) the classification, the method of appointment and the determination of the terms and conditions of service of officers, teachers and other staff of the Institute;

(d) the reservation of posts for the Scheduled Castes, the Scheduled Tribes and other categories of persons as may be determined by the Central Government, from time to time;

(e) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the Institute;

(f) the constitution, powers and duties of the authorities of the Institute;

(g) the establishment and maintenance of halls and hostels;

(h) the manner of filling vacancies among members of the Board;

(i) the authentication of the orders and decisions of the Board;

(j) the meetings of the Senate, the quorum at such meetings and the procedure to be followed in the conduct of their business; and

(k) any other matter which by this Act is to be, or may be, prescribed by the Statutes.

Statutes how made.

27. (1) The first Statutes of the Institute shall be framed by the Board with the previous approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament.

(2) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner hereafter in this section provided.

(3) A new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may assent thereto or withhold assent or remit it to the Board for consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

Ordinances.

28. Subject to the provisions of this Act and the Statutes, the Ordinances of the Institute may provide for all or any of the following matters, namely:—

(a) the admission of the students to the Institute;

(b) the reservation for the Scheduled Castes, the Scheduled Tribes and other categories of person;

(c) the courses of study to be laid down for all degrees of the Institute;

(d) the conditions under which students shall be admitted to the degree courses and to the examinations of the Institute and shall be eligible for degrees;

(e) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes;

(f) the conditions and mode of appointment and duties of examining bodies, examiners and moderators;

(g) the conduct of examinations;

(h) the maintenance of discipline among the students of the Institute;

(i) the fees to be charged for courses of study in the Institute and for admission to the examinations of degrees of the Institute;

(j) the conditions of residence of students of the Institute and the levying of the fees for residence in the halls and hostels and of other charges; and

(k) any other matter which by this Act or the Statutes is to be, or may be, provided for by the Ordinances.

29. (1) Save as otherwise provided in this section, Ordinances shall be made by the Senate.

Ordinances
how made.

(2) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next succeeding meeting.

(3) The Board shall have power by resolution to modify or cancel any such Ordinances and such Ordinances shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

30. (1) Any dispute arising out of a contract between the Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal of Arbitration consisting of one member appointed by the Institute, one member nominated by the employee, and an umpire appointed by the Visitor.

Tribunal of
Arbitration.

(2) The decision of the Tribunal of Arbitration shall be final and shall not be questioned in any court.

(3) No suit or proceeding shall lie in any court in respect of any matter which is required by sub-section (1) to be referred to the Tribunal of Arbitration.

(4) The Tribunal of Arbitration shall have power to regulate its own procedure.

(5) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

CHAPTER III

MISCELLANEOUS

31. No act of the Institute or Board or Senate or any other body set up under this Act or the Statutes, shall be invalid merely by reason of—

Acts and pro-
ceedings not to
be invalidated
by vacancies.

(a) any vacancy in, or defect in, the constitution thereof, or

(b) any defect in the election, nomination or appointment of person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case.

3 of 1956.

32. Notwithstanding anything contained in the University Grants Commission Act, 1956 or in any other law for the time being in force, the Institute shall have power to grant degrees and other academic distinctions and titles under this Act.

Grant of
degrees, etc., by
Institute.

33. Whenever the Institute receives funds from any Government, the University Grants Commission or any other agency sponsoring a scheme to be executed by the Institute, notwithstanding anything in this Act,—

Sponsored
schemes.

(a) the amount received shall be kept by the Institute separately from the Fund of the Institute and utilised only for the purpose of the scheme;

(b) the staff required to execute the same shall be recruited in accordance with the terms and conditions stipulated by the sponsoring organisation:

Provided that any money remaining unutilised under clause (a) shall be transferred to the endowment fund created under section 22 of this Act.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of two years from the appointed day.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Transitional provisions.

35. Notwithstanding anything contained in this Act,—

(a) the Board of Governors of the Society functioning as such immediately before the commencement of this Act shall continue to so function until a new Board is constituted for the Institute under this Act, but on the constitution of a new Board under this Act, the members of the Board holding office before such constitution shall cease to hold office;

(b) until the first Statutes and the Ordinances are made under this Act, the Statutes and the Ordinances of the National Institute of Pharmaceutical Education and Research, Sector-67, S.A.S. Nagar (Mohali), District Ropar, Punjab as in force, immediately before the commencement of this Act, shall continue to apply to the Institute in so far as they are not inconsistent with the provisions of this Act.

Statutes and Ordinances to be published in the Official Gazette and to be laid before Parliament.

36. (1) Every Statute or Ordinance made under this Act shall be published in the Official Gazette.

(2) Every Statute or Ordinance made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute or Ordinance or both Houses agree that the Statute or Ordinance should not be made, the Statute or Ordinance shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute or Ordinance.

(3) The power to make the Statutes or the Ordinances shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act to the Statutes or the Ordinances or any of them but no retrospective effect shall be given to any Statute or Ordinance so as to prejudicially affect the interests of any person to whom such Statute or Ordinance may be applicable.

Repeal and saving.

37. (1) The National Institute of Pharmaceutical Education and Research Ordinance, 1998 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under this Act.

Ord.
9 of 1998.

Sd/—

RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 15th April, 1999.

No. RP/44/99/Act-21/98/E.—The following Act of Parliament is
 re-published for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
 (Legislative Department)

New Delhi, the 1st August, 1998/Shravana 10, 1920 (Saka)

The following Act of Parliament received the assent of the President on the 1st August, 1998,
 and is hereby published for general information:—

THE FINANCE (No. 2) ACT, 1998

(No. 21 of 1998)

(1st August, 1998)

**An Act to give effect to the financial proposals of the Central Government for
 the financial year 1998-99.**

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Finance (No. 2) Act, 1998.
- (2) Save as otherwise provided in this Act, sections 2 to 98 (except section 51) shall be deemed to have come into force on the 1st day of April, 1998.

Short title and
 commence-
 ment.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing Income-tax on the 1st day of April, 1998, income-tax shall be charged at the rates specified in Part I of the First Schedule.
- (2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding six hundred rupees, in addition to total income, and the total income exceeds forty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first forty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:-

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of forty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be.

43 of 1961.

(4) In cases in which tax has to be charged and paid under section 115-O of the Income-tax Act, the tax shall be charged and paid at the rate specified in that section.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule.

(6) In cases in which tax has to be deducted under sections 194C, 194G, 194-I, 194J and 194K of the Income-tax Act, the deduction shall be made at the rates specified in those sections.

(7) In cases in which tax has to be collected under section 206C or under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in that section or at the rate specified in Part II of the First Schedule, as the case may be.

(8) Subject to the provisions of sub-section (9), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be.

(9) In the cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds fifty thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,-

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows:-

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be,

"advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income.

(10) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1998, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

3. In the Income-tax Act, save as otherwise expressly provided, and unless the context otherwise requires, the reference to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of October, 1998 by reference to the authority or authorities specified in the corresponding entry in column (2) of the said Table and such consequential changes as the rules of grammar may require shall also be made:

Substitution of
new
authorities.

TABLE

(1)	(2)
1. Assistant Commissioner	Assistant Commissioner or Deputy Commissioner.
2. Assistant Director	Assistant Director or Deputy Director.
3. Deputy Commissioner	Joint Commissioner.
4. Deputy Director	Joint Director.

4. In section 2 of the Income-tax Act,—

Amendment
of section 2.

(a) in clause (7A), with effect from the 1st day of October, 1998,—

(i) for the words "Assistant Commissioner or Assistant Director", the words "Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director" shall be substituted;

(ii) for the words "Deputy Commissioner or Deputy Director", the words "Joint Commissioner or Joint Director" shall be substituted;

(b) in clause (9A), after the words "an Assistant Commissioner of Income-tax", the words "or a Deputy Commissioner of Income-tax" shall be inserted with effect from the 1st day of October, 1998;

(c) for clause (11), the following clause shall be substituted with effect from the 1st day of April, 1999, namely:—

"(11) "block of assets" means a group of assets falling within a class of assets comprising—

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature,

in respect of which the same percentage of depreciation is prescribed;";

(d) in clause (19A), the words "or an Additional Commissioner of Income-tax" shall be omitted with effect from the 1st day of October, 1998;

(e) In clause (19C), the words "or an Additional Director of Income-tax" shall be omitted with effect from the 1st day of October, 1998;

(f) after clause (28B), the following clauses shall be inserted with effect from the 1st day of October, 1998, namely:—

"(28C) "Joint Commissioner" means a person appointed to be a Joint Commissioner of Income-tax or an Additional Commissioner of Income-tax under sub-section (1) of section 117;

(28D) "Joint Director" means a person appointed to be a Joint Director of Income-tax or an Additional Director of Income-tax under sub-section (1) of section 117;";

(g) In clause (30), the words, figures and brackets ", and for the purposes of sections 92, 93 and 168, includes a person who is not ordinarily resident within the meaning of sub-section (6) of section 6" shall be omitted with effect from the 1st day of April, 1999.

Amendment
of section 10.

5. In section 10 of the Income-tax Act, with effect from the 1st day of April, 1999,—

(a) clause (5A) shall be omitted;

(b) in clause (6), item (aa) of sub-clause (i) and sub-clauses (via), (vib), (ix) and (x) shall be omitted;

(c) In clause (15), in sub-clause (iv), in the *Explanation*, after clause (a), the following clause shall be inserted, namely:—

"(aa) the manufacture of computer software or recording of programme on any disc, tape, perforated media or other information device; or";

(d) clause (18A) shall be omitted;

(e) clauses (22) and (22A) shall be omitted;

(f) In clause (23C),—

(A) after sub-clause (iia), the following sub-clauses shall be inserted, namely:—

"(iiaab) any university or other educational institution existing solely for educational purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or

(iiaac) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or

(iiaad) any university or other educational institution existing solely for educational purposes and not for purposes of profit if the aggregate annual receipts of such university or educational institution do not exceed the amount of annual receipts as may be prescribed; or

(iiaae) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, if the aggregate annual receipts of such hospital or institution do not exceed the amount of annual receipts as may be prescribed; or";

(B) after sub-clause (v), the following sub-clauses shall be inserted, namely:—

"(vi) any university or other educational institution existing solely for educational purposes and not for purposes of profit, other than those mentioned in sub-clause (iiaab) or sub-clause (iiaad) and which may be approved by the prescribed authority; or

(via) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, other than those mentioned in sub-clause (iiaac) or sub-clause (iiaae) and which may be approved by the prescribed authority;";

(C) In the first, second, third, fifth and sixth provisos,—

(i) after the word "institution", the following shall be inserted, namely:—

"or any university or other educational institution or any hospital or other medical institution";

(ii) after the words, brackets and letter "or sub-clause (v)", the words, brackets and letters "or sub-clause (vi) or sub-clause (via)" shall be inserted;

(D) after the fourth proviso, the following proviso shall be inserted, namely:—

"Provided also that the exemption under sub-clause (vi) or sub-clause (via) shall not be denied in relation to any funds invested or deposited before the 1st day of June, 1998, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 2001.;"

(g) in clause (23F),—

(a) the third and fourth provisos shall be omitted;

(b) in the *Explanation*, for clause (c), the following clauses shall be substituted, namely:—

'(c) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the business of generation or generation and distribution of electricity or any other form of power or engaged in the business of providing telecommunication services or in the business of developing, maintaining and operating any infrastructure facility or engaged in the manufacture or production of such articles or things (including computer software) as may be notified by the Central Government in this behalf;

(d) "infrastructure facility" means a road, highway, bridge, airport, port, rail system, a water supply project, irrigation project, sanitation and sewerage system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions specified in sub-section (4A) of section 80-IA.;"

(h) for clause (23G), the following clause shall be substituted, namely:—

"(23G) any income by way of dividends, other than dividends referred to in section 115-O, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company from investments made on or after the 1st day of June, 1998 by way of shares or long-term finance in any enterprise wholly engaged in the business of developing, maintaining and operating any infrastructure facility and which has been approved by the Central Government on an application made by it in accordance with the rules made in this behalf and which satisfies the prescribed conditions.

Explanation.—For the purposes of this clause,—

(a) "infrastructure capital company" means such company as has made investments by way of acquiring shares or providing long-term finance to an enterprise wholly engaged in the business of developing, maintaining and operating infrastructure facility;

(b) "infrastructure capital fund" means such fund operating under a trust deed registered under the provisions of the Registration Act, 1908 established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to an enterprise wholly engaged in the business of developing, maintaining and operating infrastructure facility,

(c) "infrastructure facility" means—

(i) a road, highway, bridge, airport, port, rail system, a water supply project, irrigation project, sanitation and sewerage system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions specified in sub-section (4A) of section 80-IA;

(ii) a project for generation or generation and distribution of electricity or any other form of power where such project starts generating power on or after the 1st day of April, 1993;

(iii) a project for providing telecommunication services on or after the 1st day of April, 1995;

(iv) a project for housing which fulfils the conditions specified in sub-section (4F) of section 80-IA;

(d) "long-term finance" shall have the meaning assigned to it in clause (viii) of sub-section (7) of section 36.;"

(i) in clause (26), after the words, brackets and figures "North-Eastern Areas (Reorganisation) Act, 1971", the words "or in the Ladakh region of the State of Jammu and Kashmir" shall be inserted.

6. In section 16 of the Income-tax Act, for clause (i), the following clause shall be substituted with effect from the 1st day of April, 1999, namely:— Amendment of section 16.

"(i) in the case of an assessee whose income from salary, before allowing a deduction under this clause,—

(a) does not exceed one lakh rupees, a deduction of a sum equal to thirty-three and one-third per cent. of the salary or twenty-five thousand rupees, whichever is less;

16 of 1908.

81 of 1971.

(b) exceeds one lakh rupees but does not exceed five lakh rupees, a deduction of a sum of twenty thousand rupees.

Explanation.—For the purposes of this clause, where salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause;.

Amendment of section 17. 7. In section 17 of the Income-tax Act, in clause (2), in the proviso, in clause (v), for the words "ten thousand rupees", the words "fifteen thousand rupees" shall be substituted with effect from the 1st day of April, 1999.

Amendment of section 24. 8. In section 24 of the Income-tax Act, with effect from the 1st day of April, 1999,—

(a) in sub-section (1), in clause (i), for the word "one-fifth", the word "one-fourth" shall be substituted;

(b) in the proviso to sub-section (2), for the word "fifteen", the word "thirty" shall be substituted.

Amendment of section 32. 9. In section 32 of the Income-tax Act, in sub-section (1),—

(a) for the opening portion beginning with the words "In respect of depreciation of buildings, machinery, plant or furniture owned, wholly or partly," and ending with the words "and figures "section 34, be allowed—", the following shall be substituted with effect from the 1st day of April, 1999, namely:—

"In respect of depreciation of—

(i) buildings, machinery, plant or furniture, being tangible assets;

(ii) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998,

owned, wholly or partly, by the assessee and used for the purposes of the business or profession, the following deductions shall be allowed—;

(b) in the fourth proviso, for the words "plant or furniture", the words "plant or furniture, being tangible asset or know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets" shall be substituted with effect from the 1st day of April, 1999;

(c) after *Explanation 2*, the following *Explanations* shall be inserted with effect from the 1st day of April, 1999, namely:—

Explanation 3.—For the purposes of this sub-section, the expressions "assets" and "block of assets" shall mean—

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature.

Explanation 4.—For the purposes of this sub-section, the expression "know-how" means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto);.

(d) after clause (ii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:—

(iii) in the case of any building, machinery, plant or furniture in respect of which depreciation is claimed and allowed under clause (i) and which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof:

Provided that such deficiency is actually written off in the books of the assessee.

Explanation.—For the purposes of this clause,—

(1) "moneys payable" in respect of any building, machinery, plant or furniture includes—

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold.

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (1) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(2) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company;

(e) in the fourth proviso, after the words "referred to in", the words, brackets and figures "clause (xiii) and clause (xiv) of section 47 or" shall be inserted with effect from the 1st day of April, 1999.

10. After section 33AB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Insertion of
new section
33ABA.

33ABA. (1) Where an assessee is carrying on business consisting of the prospecting for, or extraction or production of, petroleum or natural gas or both in India and in relation to which the Central Government has entered into an agreement with such assessee for such business, has before the end of the previous year—

Site
Restoration
Fund.

(a) deposited with the State Bank of India any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) approved in this behalf by the Government of India in the Ministry of Petroleum and Natural Gas; or

(b) deposited any amount in an account (hereafter in this section referred to as the Site Restoration Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Ministry referred to in clause (a) (hereafter in this section referred to as the deposit scheme),

the assessee shall, subject to the provisions of this section, be allowed a deduction (such deduction being allowed before the loss, if any, brought forward from earlier years is set off under section 72) of—

(i) a sum equal to the amount or the aggregate of the amounts so deposited; or

(ii) a sum equal to twenty per cent. of the profits of such business (computed under the head "Profits and gains of business or profession" before making any deduction under this section),

whichever is less:

Provided that where such assessee is a firm, or any association of persons or any body of individuals, the deduction under this section shall not be allowed in the computation of the income of any partner or, as the case may be, any member of such firm, association of persons or body of individuals:

Provided further that where any deduction, in respect of any amount deposited in the special account, or in the Site Restoration Account, has been allowed under this sub-section in any previous year, no deduction shall be allowed in respect of such amount in any other previous year:

Provided also that any amount credited in the special account or the Site Restoration Account by way of interest shall be deemed to be a deposit.

(2) The deduction under sub-section (1) shall not be admissible unless the accounts of such business of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant:

Provided that in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this sub-section if such assessee gets the accounts of such business audited under such law and furnishes the report of the audit as required under such other law and a further report in the form prescribed under this sub-section.

(3) Any amount standing to the credit of the assessee in the special account or the Site Restoration Account shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme.

(4) Notwithstanding anything contained in sub-section (3), no deduction under sub-section (1) shall be allowed in respect of any amount utilised for the purchase of—

(a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(b) any office appliances (not being computers);

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.

(5) Where any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is withdrawn on closure of the account during any previous year by the assessee, the amount so withdrawn from the account, as reduced by the amount, if any, payable to the Central Government by way of profit or production share as provided in the agreement referred to in section 42, shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.

Explanation.—Where any amount is withdrawn on closure of the account in a previous year in which the business carried on by the assessee is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(6) Where any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme or the deposit scheme, such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(7) Where any amount, standing to the credit of the assessee in the special account or in the Site Restoration Account, which is released during any previous year by the State Bank of India or which is withdrawn by the assessee from the Site Restoration Account for being utilised by the assessee for the purposes of such business in accordance with the scheme or the deposit scheme is not so utilised, either wholly or in part, within that previous year, the whole of such amount or, as the case may be, part thereof which is not so utilised shall be deemed to be profits and gains of business and accordingly chargeable to income-tax as the income of that previous year.

Provided that this sub-section shall not apply in a case where such amount is released during any previous year at the closure of the account in the circumstances specified in clauses (b), (c) and (e) of sub-section (3).

(8) Where any asset acquired in accordance with the scheme or the deposit scheme is sold or otherwise transferred in any previous year by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year.

Provided that nothing in this sub-section shall apply—

(i) where the asset is sold or otherwise transferred by the assessee to Government, a local authority, a corporation established by or under a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956; or

(ii) where the sale or transfer of the asset is made in connection with the succession of a firm by a company in the business or profession carried on by the firm as a result of which the firm sells or otherwise transfers to the company any asset and the scheme or the deposit scheme continues to apply to the company in the manner applicable to the firm.

Explanation.—The provisions of clause (ii) of the proviso shall apply only where—

(i) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company;

(ii) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

(9) The Central Government may, if it considers necessary or expedient so to do, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed after such date as may be specified therein.

Explanation.—For the purposes of this section,—

(a) "State Bank of India" means the State Bank of India constituted under the State Bank of India Act, 1955;

(b) the expression "amount standing to the credit of the assessee in the special account or the Site Restoration Account" includes interest accrued to such accounts.

11. In section 35 of the Income-tax Act, in sub-section (2AB), after clause (4), the following clause shall be inserted, namely:— Amendment of section 35.

"(5) No deduction shall be allowed in respect of the expenditure referred to in clause (1) which is incurred after the 31st day of March, 2000."

12. In section 35A of the Income-tax Act, in sub-section (1), after the words, figures and letters "after the 28th day of February, 1966", the words, figures and letters "but before the 1st day of April, 1998" of section 35A shall be inserted with effect from the 1st day of April, 1999.

13. In section 35AB of the Income-tax Act, in sub-section (1), for the words "in any previous year", the words, letters and figures "in any previous year relevant to the assessment year commencing on or before the 1st day of April, 1998" shall be substituted with effect from the 1st day of April, 1999. Amendment of section 35AB.

14. In section 35D of the Income-tax Act, with effect from the 1st day of April, 1999,—

(a) in sub-section (1), the following proviso shall be inserted, namely:— Amendment of section 35D.

'Provided that where an assessee incurs after the 31st day of March, 1998, any expenditure specified in sub-section (2), the provisions of this sub-section shall have effect as if for the words "an amount equal to one-tenth of such expenditure for each of the ten successive previous years", the words "an amount equal to one-fifth of such expenditure for each of the five successive previous years" had been substituted.'

(b) in sub-section (3), before the *Explanation*, the following proviso shall be inserted, namely:—

'Provided that where the aggregate amount of expenditure referred to in sub-section (2) is incurred after the 31st day of March, 1998, the provisions of this sub-section shall have effect as if for the words "two and one-half per cent.", the words "five per cent." had been substituted.'

15. In section 37 of the Income-tax Act, after sub-section (1), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:— Amendment of section 37.

"Explanation.—For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure."

16. In section 41 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:— Amendment of section 41.

"(2) Where any building, machinery, plant or furniture,—

(a) which is owned by the assessee;

(b) in respect of which depreciation is claimed under clause (i) of sub-section (1) of section 32; and

(c) which was or has been used for the purposes of business,

is sold, discarded, demolished or destroyed and the moneys payable in respect of such building, machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceeds the written down value, so much of the excess as does not exceed the difference between the actual cost and the written down value shall be chargeable to income-tax as income of the business of the previous year in which the moneys payable for the building, machinery, plant or furniture became due.

Explanation.—Where the moneys payable in respect of the building, machinery, plant or furniture referred to in this sub-section become due in a previous year in which the business for the purpose of which the building, machinery, plant or furniture was being used is no longer in existence, the provision of this sub-section shall apply as if the business is in existence in that previous year.”

Amendment
of section 42.

17. Section 42 of the Income-tax Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following shall be inserted with effect from the 1st day of April, 1999, namely:—

“(2) Where the business of the assessee consisting of the prospecting for or extraction or production of petroleum and natural gas is transferred wholly or partly or any interest in such business is transferred in accordance with the agreement referred to in sub-section (1), subject to the provisions of the said agreement and where the proceeds of the transfer (so far as they consist of capital sums)—

(a) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of transfer, shall be allowed in respect of the previous year in which such business or interest, as the case may be, is transferred;

(b) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred in connection with the business or to obtain interest therein and the amount of such expenditure remaining unallowed, shall be chargeable to income-tax as profits and gains of the business in the previous year in which the business or interest therein, whether wholly or partly, had been transferred:

Provided that in a case where the provisions of this clause do not apply, the deduction to be allowed for expenditure incurred remaining unallowed shall be arrived at by subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed.

Explanation.—Where the business or interest in such business is transferred in a previous year in which such business carried on by the assessee is no longer in existence, the provisions of this clause shall apply as if the business is in existence in that previous year;

(c) are not less than the amount of the expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed in respect of the previous year in which the business or interest in such business is transferred or in respect of any subsequent year or years:

Provided that in a scheme of amalgamation, the amalgamating company sells or otherwise transfers the business to the amalgamated company (being an Indian company), the provisions of this sub-section—

(i) shall not apply in the case of the amalgamating company; and

(ii) shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not transferred the business or interest in the business.”

Amendment
of section 43.

18. In section 43 of the Income-tax Act, in clause (1),—

(a) after *Explanation 8*, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1994, namely:—

“*Explanation 9.*—For the removal of doubts, it is hereby declared that where an asset is or has been acquired on or after the 1st day of March, 1994 by an assessee, the actual cost of asset shall be reduced by the amount of duty of excise or the additional duty leviable under section 3 of the Customs Tariff Act, 1975 in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944.”

(b) after *Explanation 9*, the following *Explanation* shall be inserted with effect from the 1st day of April, 1999, namely:—

“*Explanation 10.*—Where a portion of the cost of an asset acquired by the assessee has been met directly or indirectly by the Central Government or a State Government or any authority established under any law or by any other person, in the form of a subsidy or grant or reimbursement (by whatever name called), then, so much of the cost as is relatable to such subsidy or grant or reimbursement shall not be included in the actual cost of the asset to the assessee:

Provided that where such subsidy or grant or reimbursement is of such nature that it can not be directly relatable to the asset acquired, so much of the amount which bears to the total subsidy or reimbursement or grant the same proportion as such asset bears to all the assets in respect of or with reference to which the subsidy or grant or reimbursement is so received, shall not be included in the actual cost of the asset to the assessee.”

Amendment
of section
43B.

19. In section 43B of the Income-tax Act, after clause (e), in the proviso, after the words, brackets and letter “or clause (d)”, the words, brackets and letter “or clause (e)” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1997.

20. In section 44AA of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 1999,— Amendment of section 44AA.

(a) for the words "forty thousand", at both the places where they occur, the words "one lakh twenty thousand" shall be substituted;

(b) for the words "five hundred thousand", at both the places where they occur, the words "ten lakh" shall be substituted.

21. In section 47 of the Income-tax Act,—

Amendment of section 47.

(a) in clause (xi), for the figures, letters and words "31st day of December, 1997", the figures, letters and words "31st day of December, 1998" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;

(b) after clause (xii), the following clauses shall be inserted with effect from the 1st day of April, 1999, namely:—

"(xiii) where a firm is succeeded by a company in the business carried on by it as a result of which the firm sells or otherwise transfers any capital asset or intangible asset to the company:

Provided that—

(a) all the assets and liabilities of the firm relating to the business immediately before the succession become the assets and liabilities of the company;

(b) all the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of succession;

(c) the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and

(d) the aggregate of the shareholding in the company of the partners of the firm is not less than fifty per cent. of the total voting power in the company and their shareholding continues to be as such for a period of five years from the date of the succession;

(xiv) where a sole proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary concern sells or otherwise transfers any capital asset or intangible asset to the company:

Provided that—

(a) all the assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;

(b) the shareholding of the sole proprietor in the company is not less than fifty per cent. of the total voting power in the company and his shareholding continues to remain as such for a period of five years from the date of the succession; and

(c) the sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;

(xv) any transfer in a scheme for lending of any securities under an agreement or arrangement, which the assessee has entered into with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India, established under section 3 of the Securities and Exchange Board of India Act, 1992, in this regard."

15 of 1992.

22. In section 47A of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 1999, namely:— Amendment of section 47A.

"(3) Where any of the conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible asset not charged under section 45 by virtue of conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) of section 47 shall be deemed to be the profits and gains chargeable to tax of the successor company for the previous year in which the requirements of the proviso to clause (xiii) or the proviso to clause (xiv), as the case may be, are not complied with."

23. After section 50 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:— Insertion of new section 50A.

"50A. Where the capital asset is an asset in respect of which a deduction on account of depreciation under clause (i) of sub-section (1) of section 32 has been obtained by the assessee in any previous year, the provisions of sections 48 and 49 shall apply subject to the modification that the written down value, as defined in clause (6) of section 43, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset." Special provision for cost of acquisition in case of depreciable asset.

Amendment
of section
54H.

24. In section 54H of the Income-tax Act, after the figures and letter "54D", the figures and letters "54EA, 54EB" shall be inserted with effect from the 1st day of April, 1999.

Amendment
of section
69C.

25. In section 69C of the Income-tax Act, the following proviso shall be inserted at the end with effect from the 1st day of April, 1999, namely:—

"Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income."

Insertion of
new section
71B.

26. After section 71A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Carry forward
and set-off of
loss from
house
property.

"71B. Where for any assessment year the net result of computation under the head "Income from house property" is a loss to the assessee and such loss cannot be or is not wholly set-off against income from any other head of income in accordance with the provisions of section 71, so much of the loss as has not been so set-off or where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and—

(i) be set-off against the income from house property assessable for that assessment year; and

(ii) the loss, if any, which has not been set-off wholly, the amount of loss not so set-off, shall be carried forward to the following assessment year, not being more than eight assessment years immediately succeeding the assessment year for which the loss was first computed."

Amendment
of section
72A.

27. In section 72A of the Income-tax Act, after sub-section (3) and before the *Explanation*, the following shall be inserted with effect from the 1st day of April, 1999, namely:—

"(4) Where there has been reorganisation of business, whereby a firm is succeeded by a company fulfilling the conditions laid down in clause (xiii) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (xiv) of section 47, then, notwithstanding anything contained in any other provisions of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor firm or the proprietary concern, as the case may be, shall be deemed to be the loss or allowance for depreciation of the successor company for the previous year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly:

Provided that if any of the conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) to section 47 are not complied with, the set-off of loss or allowance of depreciation made in any previous year in the hands of the successor company, shall be deemed to be the income of the company chargeable to tax in the year in which such conditions are not complied with.

(5) For the purposes of sub-section (4),—

(a) "accumulated loss" means so much of the loss of the predecessor firm or the proprietary concern, as the case may be, under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such predecessor firm or the proprietary concern would have been entitled to carry forward and set off under the provisions of section 72 if the reorganisation of business had not taken place;

(b) "unabsorbed depreciation" means so much of the allowance for depreciation of the predecessor firm or the proprietary concern, as the case may be, which remains to be allowed and which would have been allowed to the predecessor firm or the proprietary concern, as the case may be, under the provisions of this Act, if the reorganisation of business had not taken place."

28. For sections 80DD and 80DDA of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1999, namely:—

Substitution of new section for sections 80DD and 80DDA.

'80DD. (1) In computing the total income of an assessee who is a resident of India, being an individual or a Hindu undivided family, there shall be deducted, in accordance with and subject to the provisions of this section, the amount—

Deduction in respect of maintenance including medical treatment of handicapped dependant.

(a) of expenditure incurred by way of medical treatment (including nursing), training and rehabilitation of a handicapped dependant; or

(b) paid or deposited under any scheme framed in this behalf by the Life Insurance Corporation or Unit Trust of India subject to the conditions specified in sub-section (2) and approved by the Board in this behalf for the maintenance of handicapped dependant,

out of his income chargeable to tax:

Provided that no such amount shall exceed forty thousand rupees in the aggregate under clause (a) or clause (b) or both.

(2) The deduction under clause (b) of sub-section (1) shall be allowed only if the following conditions are fulfilled, namely:—

(a) the scheme referred to in clause (b) of sub-section (1) provides for payment of annuity or lump sum amount for the benefit of a handicapped dependant in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made;

(b) the assessee nominates either the handicapped dependant or any other person or a trust to receive the payment on his behalf, for the benefit of the handicapped dependant.

(3) If the handicapped dependant predeceases the individual or the member of the Hindu undivided family referred to in sub-section (2), an amount equal to the amount paid or deposited under clause (b) of sub-section (1) shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year.

(4) In this section,—

(a) "Government hospital" includes a departmental dispensary whether full-time or part-time established and run by a Department of the Government for the medical attendance and treatment of a class or classes of Government servants and members of their families, a hospital maintained by a local authority and any other hospital maintained by a local authority and any other hospital with which arrangements have been made by the Government for the treatment of Government servants;

(b) "handicapped dependant" means a person who—

(i) is a relative of the individual or, as the case may be, is a member of the Hindu undivided family and is not dependant on any person other than such individual or Hindu undivided family for his support or maintenance; and

(ii) is suffering from a permanent physical disability (including blindness) or is subject to mental retardation, being a permanent physical disability or mental retardation specified in the rules made by the Board for the purposes of this section, which is certified by a physician, a surgeon, an oculist or a psychiatrist, as the case may be, working in a Government hospital, and which has the effect of reducing considerably such person's capacity for normal work or engaging in a gainful employment or occupation;

(c) "Life Insurance Corporation" shall have the same meaning as in clause (iii) of sub-section (8) of section 88;

(d) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963.

52 of 1963.

29. In section 80G of the Income-tax Act, with effect from the 1st day of April, 1999, namely:—

Amendment of section 80G.

(a) in sub-section (1), in clause (i), after the word, brackets, figures and letters "sub-clause (iihf)", the words, brackets, figures and letters "or sub-clause (iihg) or sub-clause (iihh)" shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iihf), the following sub-clauses shall be inserted, namely:—

"(iihg) the National Sports Fund to be set up by the Central Government; or

(iihh) the National Cultural Fund set up by the Central Government; or";

(c) in sub-section (5), in clause (i), the words, brackets, figures and letter "or clause (22) or clause (22A)" shall be omitted.

30. After section 80G of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1998, namely:—

Insertion of new section 80GG.

Deductions in
respect of
rents paid.

'80GG. In computing the total income of an assessee, not being an assessee having any income falling within clause (13A) of section 10, there shall be deducted any expenditure incurred by him in excess of ten per cent. of his total income towards payment of rent (by whatever name called) in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence, to the extent to which such excess expenditure does not exceed two thousand rupees per month or twenty-five per cent. of his total income for the year, whichever is less, and subject to such other conditions or limitations as may be prescribed, having regard to the area or place in which such accommodation is situated and other relevant considerations:

Provided that nothing in this section shall apply to an assessee in any case where any residential accommodation is—

(i) owned by the assessee or by his spouse or minor child or, where such assessee is a member of a Hindu undivided family, by such family, at the place where he ordinarily resides or performs duties of his office or employment or carries on his business or profession; or

(ii) owned by the assessee at any other place, being accommodation in the occupation of the assessee, the value of which is to be determined under sub-clause (i) of clause (a) or, as the case may be, clause (b) of sub-section (2) of section 23.

Explanation.—In this section, the expressions "ten per cent. of his total income" and "twenty-five per cent. of his total income" shall mean ten per cent. or twenty-five per cent., as the case may be, of the assessee's total income before allowing deduction for any expenditure under this section.

Insertion of
new section
80HHBA.

31. After section 80HBB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Deduction in
respect of
profits and
gains from
housing
projects in
certain
cases.

'80HHBA. (1) Where the gross total income of an assessee being an Indian company or a person (other than a company) who is a resident in India includes any profits and gains derived from the execution of a housing project awarded to the assessee on the basis of global tender and such project is aided by the World Bank, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to fifty per cent. thereof.

(2) The deductions under this section shall be allowed only if the following conditions are fulfilled, namely:—

(i) the assessee maintains separate accounts in respect of the profits and gains derived from the business of the execution of the housing project undertaken by him and, where the assessee is a person other than an Indian company or a co-operative society, such accounts have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and the assessee furnishes along with his return of income the report of such audit in the prescribed form duly signed and verified by such accountant;

(ii) an amount equal to fifty per cent. of the profits and gains referred to in sub-section (1) is debited to the profit and loss account of the previous year in respect of which the deduction under this section is to be allowed and credited to a reserve account (to be called the Housing Projects Reserve Account) to be utilized by the assessee during a period of five years next following for the purpose of his business other than for distribution by way of dividends or profit:

Provided that where the amount credited by the assessee to the Housing Projects Reserve Account in pursuance of clause (ii) is less than fifty per cent. of the profits and gains referred to in sub-section (1), the deduction under this section shall be limited to the amount so credited in pursuance of clause (ii).

(3) If at any time before the expiry of five years from the end of the previous year in which the deduction under sub-section (1) is allowed, the assessee utilises the amount credited to the Housing Projects Reserve Account for distribution by way of dividends or profit or for any other purpose which is not a purpose of the business of the assessee, the deduction originally allowed under sub-section (1) shall be deemed to have been wrongly allowed and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make necessary amendment and the provision of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the money was so utilised.

(4) Notwithstanding anything contained in any other provision of this Chapter under heading "C.—Deduction in respect of certain incomes", no part of the income payable to the assessee for the execution of a housing project under sub-section (1) shall qualify for deduction for any assessment year under any other provision.

Explanation.—For the purposes of this section,—

(a) "housing project" means a project for—

(i) the construction of any building, road, bridge or other structure in any part of India;

(ii) the execution of such other work (of whatever nature) as may be prescribed;

(b) "World Bank" means the International Bank for Reconstruction and Development Bank referred to in the International Monetary Fund and Bank Act, 1945.

32. In section 80HHD of the Income-tax Act, after sub-section (6), and before the Explanation, the following sub-section shall be inserted with effect from the 1st day of April, 1999, namely:—

Amendment of section 80HHD

(7) Where a deduction under sub-section (7) is claimed and allowed in respect of profits derived from the business of a hotel, such part of profits shall not qualify to that extent for deduction for any assessment year under any other provisions of this Chapter under the heading "C.—Deductions in respect of certain incomes", and shall in no case exceed the profits and gains of such hotel.

33. In section 80HHE of the Income-tax Act, with effect from the 1st day of April, 1999,—

Amendment of section 80HHE

(a) after sub-section (7), the following shall be inserted, namely:—

"Provided that if the assessee, being a company, engaged in the export out of India of computer software, issues a certificate referred to in clause (b) of sub-section (4A), that in respect of the amount of the export specified therein, the deduction under this sub-section is to be allowed to a supporting software developer, then the amount of deduction in the case of an assessee shall be reduced by such amount which bears to the total profits derived by the assessee from the export, the same proportion as the amount of the export turnover specified in such certificate bears to the total export turnover of the assessee.

(1A) Where the assessee, being a supporting software developer, has during the previous year, developed and sold computer software to an exporting company in respect of which the said company has issued a certificate under the proviso to sub-section (7), there shall, in accordance with and subject to the provisions of this section, be allowed in computing the total income of the assessee a deduction of the profits derived by the assessee from the developing and selling of computer software to the exporting company in respect of which the certificate has been issued by the said company."

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) For the purposes of sub-section (1A), profits derived by a supporting software developer shall be,—

(i) in a case where the business carried on by the supporting software developer consists exclusively of developing and selling of computer software to one or more exporting companies solely engaged in exports, the profits of such business;

(ii) in a case where the business carried on by a supporting software developer does not consist exclusively of developing and selling of computer software to one or more exporting companies, the amount which bears to the profits of the business, the same proportion as the turnover in respect of sale to the respective exporting company bears to the total turnover of the business carried on by the assessee."

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) The deduction under sub-section (1A) shall not be admissible unless the supporting software developer furnishes in the prescribed form along with his return of income,—

(i) the report of an accountant, as defined in the Explanation below sub-section (2) of section 288, certifying that the deduction has been correctly claimed on the basis of the profits of the supporting software developer in respect of sale of computer software to the exporting company; and

(ii) a certificate from the exporting company containing such particulars as may be prescribed and verified in the manner prescribed that in respect of the export turnover mentioned in the certificate, the exporting company has not claimed deduction under this section:

Provided that the certificate specified in clause (b) shall be duly certified by the auditor auditing the accounts of the exporting assessee under the provisions of this Act or under any other law."

(d) in the Explanation below sub-section (5),—

(i) in clause (b), after the words "any such programme", the words "or any customised electronic data" shall be inserted;

(ii) after clause (c), the following clause shall be inserted, namely:—

"(ca) "exporting company" means a company referred to in sub-section (7) making actual export of computer software;"

(iii) after clause (e), the following clause shall be inserted, namely:—

"(ea) "supporting software developer" means an Indian company or a person (other than a company) resident in India, developing and selling computer software to an exporting company for the purposes of export."

34. In section 80-IA of the Income-tax Act,—

Amendment of section 80-IA

(a) in sub-section (1), with effect from the 1st day of April, 1999,—

(i) after the words "basic or cellular", the words "including radiopaging, domestic satellite service or network of trunking and electronic data interchange services or construction and development of housing projects" shall be inserted;

- (ii) after the words "commercial production", the words "or refining" shall be inserted;
- (b) in sub-section (2),—
- (i) in clause (iii), in the proviso, for the words, figures and letters "ending on the 31st day of March, 1998", the words, figures and letters "ending on the 31st day of March, 2000" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1999;
- (ii) in clause (iv), in sub-clause (b),—
- (A) for the words, figures and letters "ending on the 31st day of March, 1998", the words, figures and letter "ending on the 31st day of March, 2000" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;
- (B) in the proviso, for the figures "2000", the figures "2003" shall be substituted with effect from the 1st day of April, 1999;
- (iii) in sub-clause (c), for the words, figures and letters "ending on the 31st day of March, 1999", the words, figures and letters "ending on the 31st day of March, 2000" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;
- (c) in sub-section (4B), in clause (i), for the figures "1998", the figures "1999" shall be substituted;
- (d) in sub-section (4C), after the words "basic or cellular", the words "including radiopaging, domestic satellite service or network of trunking and electronic data interchange services" shall be inserted with effect from the 1st day of April, 1999;
- (e) (i) in sub-section (4E), after the words "commercial production", the words "or refining" shall be inserted;
- (ii) in sub-section (4E), the following proviso shall be inserted, with effect from the 1st day of April, 1999, namely:—
- "Provided that the provisions of this section shall apply in case of refining of mineral oil where the undertaking begins refining on or after the 1st day of October, 1998;"
- (f) after sub-section (4E), the following sub-section shall be inserted with effect from the 1st day of April, 1999, namely:—
- "(4F) This section applies to an undertaking, engaged in developing and building housing projects approved by a local authority subject to the condition that the size of the plot of land has a minimum area of one acre, and the residential unit has a built up area not exceeding one thousand square feet:
- Provided that the undertaking commences development and construction of the housing project on or after the 1st day of October, 1998 and completes the same before the 31st day of March, 2001;"
- (g) in sub-section (5), after clause (v), the following clause shall be inserted with effect from the 1st day of April, 1999, namely:—
- "(vi) in the case of a housing project referred to in sub-section (4F), hundred per cent. of profits and gains derived from such business;"
- (h) in sub-section (6),—
- (i) in clause (vi), after the words "basic or cellular", the words "including radiopaging and domestic satellite service" shall be inserted with effect from the 1st day of April, 1999;
- (ii) in clause (viii), after the words "commercial production", the words "or refining" shall be inserted with effect from the 1st day of April, 1999;
- (i) after sub-section (9), the following sub-section shall be inserted with effect from the 1st day of April, 1999, namely:—
- "(9A) Where any amount of profits and gains of an industrial undertaking or of a hotel in the case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not be allowed under any other provisions of this Chapter under the heading "C.—Deductions in respect of certain incomes", and shall in no case exceed the profits and gains of the undertaking or hotel, as the case may be;"
- (j) in sub-section (12),—
- (i) clause (a) shall be re-lettered as clause (aa) and before clause (aa) as so re-lettered, the following clause shall be inserted with effect from the 1st day of April, 1999, namely:—
- "(a) "domestic satellite" means a satellite owned and operated by an Indian company for providing telecommunication service;"
- (ii) in clause (c), with effect from the 1st day of April, 1999,—
- (A) in sub-clause (4), after the words "basic or cellular", the words "including radio paging and domestic satellite service" shall be inserted;
- (B) in sub-clause (6), after the words "commercial production", the words "or refining" shall be inserted;

(ii) in clause (ca), in sub-clause (i), after the word "port," the words "inland waterways and inland ports," shall be inserted with effect from the 1st day of April, 1999.

35. After section 80JJ of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Insertion of
new section
80JJA.

"80JJA. Where the gross total income of an assessee includes any profits and gains derived from the business of collecting and processing or treating of bio-degradable waste for generating power, producing bio-gas, making pellets or briquettes for fuel or organic manure, there shall be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to the whole of such income, or five lakh rupees, whichever is less."

Deduction in
respect of
profits and
gains from
business of
collecting and
processing of
bio-degradable
waste.

36. After section 80JJA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Insertion of
new section
80JJAA.

"80JJAA. (1) Where the gross total income of an assessee, being an Indian company, includes any profits and gains derived from any industrial undertaking engaged in the manufacture or production of article or thing, there shall, subject to the conditions specified in sub-section (2), be allowed a deduction of an amount equal to thirty per cent. of additional wages paid to the new regular workmen employed by the assessee in the previous year for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

Deduction in
respect of
employment
of new
workmen.

(2) No deduction under sub-section (1) shall be allowed—

(a) if the industrial undertaking is formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking;

(b) unless the assessee furnishes along with the return of income the report of the accountant, as defined in the *Explanation* below sub-section (2) of section 288 giving such particulars in the report as may be prescribed.

Explanation.—For the purposes of this section, the expressions,—

(i) "additional wages" means the wages paid to the new regular workmen in excess of one hundred workmen employed during the previous year;

Provided that in the case of an existing undertaking, the additional wages shall be nil if the increase in the number of regular workmen employed during the year is less than ten per cent. of existing number of workmen employed in such undertaking as on the last day of the preceding year;

(ii) "regular workman", does not include—

(a) a casual workman; or

(b) a workman employed through contract labour; or

(c) any other workman employed for a period of less than three hundred days during the previous year;

(iii) "workman" shall have the meaning assigned to it in clause (s) of section 2 of the Industrial Disputes Act, 1947.

14 of 1947.

37. In section 80P of the Income-tax Act, in sub-section (2), in clause (c), with effect from the 1st day of April, 1999,—

Amendment
of section
80P.

(a) in sub-clause (i), for the words "forty thousand rupees", the words "one hundred thousand rupees" shall be substituted;

(b) in sub-clause (ii), for the words "twenty thousand rupees", the words "fifty thousand rupees" shall be substituted.

38. In section 115AD of the Income-tax Act, in sub-section (1), for clause (a), the following clause shall be substituted with effect from the 1st day of April, 1999, namely:—

Amendment
of section
115AD.

"(a) income received in respect of securities (other than units referred to in section 115 AB); or".

Amendment
of section
116.

39. In section 116 of the Income-tax Act, after clause (cc), the following clause shall be inserted with effect from the 1st day of October, 1998, namely:—

'(cca) "Joint Directors of Income-tax or Joint Commissioners of Income-tax";

Amendment of
section 139.

40. In section 139 of the Income-tax Act, in sub-section (1), with effect from the 1st day of August, 1998,—

(a) in the proviso,—

(i) for the word "two", the word "one" shall be substituted;

(ii) after clause (iv), the following shall be inserted, namely:—

'(v) is the holder of the credit card, not being an "add-on" card, issued by any bank or institution; or

(vi) is a member of a club where entrance fee charged is twenty-five thousand rupees or more;

Provided further that the Central Government may, by notification in the Official Gazette, specify the class or classes of persons to whom the provisions of the first proviso shall not apply;

(b) after *Explanation 3*, the following *Explanation* shall be inserted, namely:—

'*Explanation 4.*—For the purposes of this sub-section, the expression "travel to any foreign country" does not include travel to the neighbouring countries or to such places of pilgrimage as the Board may specify in this behalf by notification in the Official Gazette.'

Amendment of
section 139A.

41. In section 139A of the Income-tax Act, with effect from the 1st day of August, 1998,—

(a) in sub-section (1), in clause (ii), for the words "fifty thousand rupees", the words "five lakh rupees" shall be substituted;

(b) in sub-section (5), in clause (c), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that a person shall quote General Index Register Number till such time Permanent Account Number is allotted to such person";

(c) in sub-section (6), after the words "the Permanent Account Number", the words "or the General Index Register Number" shall be inserted;

(d) in sub-section (8),—

(i) in clause (b), after the words "the Permanent Account Number", the words "or the General Index Register Number" shall be inserted;

(ii) after clause (c), the following clauses shall be inserted, namely:—

"(d) class or classes of persons to whom the provisions of this section shall not apply;

(e) the form and the manner in which the person who has not been allotted a Permanent Account Number or who does not have General Index Register Number shall make his declaration;

(f) the manner in which the Permanent Account Number or the General Index Register Number shall be quoted in respect of the categories of transactions referred to in clause (c);

(g) the time and the manner in which the transactions referred to in clause (c) shall be intimated to the prescribed authority."

(b) in the *Explanation* at the end, after clause (c), the following clause shall be inserted, namely:—

'(d) "General Index Register Number" means a number given by an Assessing Officer to an assessee in the General Index Register maintained by him and containing the designation and particulars of the ward or circle or range of the Assessing Officer.'

Amendment of
section 143.

42. In section 143 of the Income-tax Act, in sub-section (3), for the words "determine the sum payable by him", the words "determine the sum payable by him or refund of any amount due to him" shall be substituted with effect from the 1st day of October, 1998.

Insertion of
new section
145A.

43. After section 145 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Method of
accounting in
certain cases.

'145A. Notwithstanding anything to the contrary contained in section 145, the valuation of purchase and sale of goods and inventory for the purposes of determining the income chargeable under the head "Profits and gains of business or profession" shall be—

(a) in accordance with the method of accounting regularly employed by the assessee; and

(b) further adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods to the place of its location and condition as on the date of valuation.

Explanation.—For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law for the time being in force, shall include all such payment notwithstanding any right arising as a consequence to such payment.

44. In section 158BA of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1995, Amendment of section 158BA.

Explanation.—For the removal of doubts, it is hereby declared that—

(a) the assessment made under this Chapter shall be in addition to the regular assessment in respect of each previous year included in the block period;

(b) the total undisclosed income relating to the block period shall not include the income assessed in any regular assessment as income of such block period;

(c) the income assessed in this Chapter shall not be included in the regular assessment of any previous year included in the block period.

45. In section 158BB of the Income-tax Act, in sub-section (1), in the *Explanation*, in clause (b), after the words "by whatever name called", the words "to any partner not being a working partner" shall be inserted with effect from the 1st day of April, 1999. Amendment of section 158BB.

46. In section 158BE of the Income-tax Act, after sub-section (2), the existing *Explanation* shall be renumbered as *Explanation 1* and after *Explanation 1* as so renumbered, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1995, Amendment of section 158BE.

Explanation 2.—For the removal of doubts, it is hereby declared that the authorisation referred to in sub-section (1) shall be deemed to have been executed,—

(a) in the case of search, on the conclusion of search as recorded in the last *panchnama* drawn in relation to any person in whose case the warrant of authorisation has been issued;

(b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

47. In section 192 of the Income-tax Act, for sub-section (2B), the following sub-section shall be substituted with effect from the 1st day of August, 1998, Amendment of section 192.

(2B) Where an assessee who receives any income chargeable under the head "Salaries" has, in addition, any income chargeable under any other head of income (not being a loss under any such head other than the loss under the head "Income from house property") for the same financial year, he may send to the person responsible for making the payment referred to in sub-section (1) the particulars of—

(a) such other income and of any tax deducted thereon under any other provision of this Chapter;

(b) the loss, if any, under the head "Income from house property",

in such form and verified in such manner as may be prescribed, and thereupon the person responsible as aforesaid shall take—

(i) such other income and tax, if any, deducted thereon; and

(ii) the loss, if any, under the head "Income from house property",

also into account for the purposes of making the deduction under sub-section (1);

Provided that this sub-section shall not in any case have the effect of reducing the tax deductible except where the loss under the head "Income from house property" has been taken into account, from income under the head "Salaries" below the amount that would be so deductible if the other income and the tax deducted thereon had not been taken into account.

Amendment
of Chapter
XIX-B.

43. In Chapter XIX-B of the Income-tax Act, with effect from the 1st day of October, 1998,—

(a) in section 245N,—

(i) for clause (a), the following clause shall be substituted, namely:—

'(a) "advance ruling" means—

(i) a determination by the Authority in relation to a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant and such determination shall include the determination of any question of law or of fact specified in the application;

(ii) a decision by the Authority in relation to an assessment which is pending before any of the Income-tax authority or the Tribunal in case of an applicant who is a resident in India and such decision shall include the decision on question of law or fact arising out of the orders of assessment in respect of which an application has been made by a resident applicant;'

(ii) for clause (b), the following clause shall be substituted, namely:—

'(b) "applicant" means any person who—

(i) is a non-resident; or

(ii) is a resident falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(iii) makes an application under sub-section (1) of section 245Q;'

(b) in section 245R, in sub-section (2), in the first proviso, after the words "allow the application", the words "except in the case of a resident applicant" shall be inserted;

(c) after section 245R, the following section shall be inserted, namely:—

Appellate
authority not
to proceed in
certain cases.

"245RR. No Income-tax authority or the Appellate Tribunal shall proceed to decide any issue in respect to which an application has been made by an applicant, being a resident, under sub-section (1) of section 245R."

Insertion of
new section
246A.

49. After section 246 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 1998, namely:—

Appealable
orders before
Commissioner
(Appeals).

"246A. (1) Any assessee aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against—

(a) an order against the assessee where the assessee denies his liability to be assessed under this Act or an intimation under sub-section (1) or sub-section (1B) of section 143, where the assessee objects to the making of adjustments, or any order of assessment under sub-section (3) of section 143 or section 144, to the income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

(b) an order of assessment, re-assessment or re-computation under section 147 or section 150;

(c) an order made under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections;

(d) an order made under section 163 treating the assessee as the agent of a non-resident;

(e) an order made under sub-section (2) or sub-section (3) of section 170;

(f) an order made under section 171;

(g) an order made under clause (b) of sub-section (1) or under sub-section (2) or sub-section (3) or sub-section (5) of section 185 in respect of an assessment for the assessment year commencing on or before the 1st day of April, 1992;

(h) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186 in respect of any assessment for the assessment year commencing on or before the 1st day of April, 1992 or any earlier assessment year;

(i) an order made under section 237;

(j) an order imposing a penalty under—

(A) section 221; or

(B) section 271, section 271A, section 271F, section 272AA or section 272BB;

(C) section 272, section 272B or section 273, as they stood immediately before the 1st day of April, 1989, in respect of an assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year;

(k) an order of assessment made by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of January, 1997;

(l) an order imposing a penalty under sub-section (2) of section 158BFA;

(m) an order imposing a penalty under section 271B or section 271BB;

(n) an order made by a Deputy Commissioner imposing a penalty under section 271C, section 271D or section 271E;

(o) an order made by a Deputy Commissioner or a Deputy Director imposing a penalty under section 272A;

(p) an order made by a Deputy Commissioner imposing a penalty under section 272AA;

(q) an order imposing a penalty under Chapter XXI;

(r) an order made by an Assessing Officer other than a Deputy Commissioner under the provisions of this Act in the case of such person or class of persons, as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

Explanation.—For the purposes of this sub-section, where on or after the 1st day of October, 1998, the post of Deputy Commissioner has been redesignated as Joint Commissioner and the post of Deputy Director has been redesignated as Joint Director, the references in this sub-section for "Deputy Commissioner" and "Deputy Director" shall be substituted by "Joint Commissioner" and "Joint Director" respectively.

(2) Notwithstanding anything contained in sub-section (1) of section 246, every appeal under this Act which is pending immediately before the appointed day, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeals and which is so pending shall stand transferred on that date to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was on that day:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be reopened or that he be re-heard.

Explanation.—For the purposes of this section, "appointed day" means the day appointed by the Central Government by notification in the Official Gazette.

50. In section 249 of the Income-tax Act, with effect from the 1st day of October, 1998,—

Amendment
of section
249.

(a) in sub-section (1), after the words "verified in the prescribed manner", the following words, brackets, letters and figures shall be inserted, namely:—

"and shall, in case of an appeal made to the Commissioner (Appeals) on or after the 1st day of October, 1998, irrespective of the date of initiation of the assessment proceedings relating thereto be accompanied by a fee of,—

(i) where the total income of the assessee as computed by the Assessing Officer in the case to which the appeal relates is one hundred thousand rupees or less, two hundred fifty rupees;

(ii) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, five hundred rupees;

(iii) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two hundred thousand rupees, one thousand rupees;

(b) in sub-section (3) and in the proviso to sub-section (4), the words and brackets "Deputy Commissioner (Appeals) or, as the case may be, the" shall be omitted.

Amendment
of section
252.

51. In section 252 of the Income-tax Act,--

(a) in sub-section (2),--

(i) for the words "Central Legal Service", the words "Indian Legal Service" shall be substituted;

(ii) for the word and figure "Grade I", the word and figures "Grade-II" shall be substituted;

(b) in sub-section (2A), for the words "Commissioner of Income-tax", the words "Additional Commissioner of Income-tax" shall be substituted.

Amendment
of section
253.

52. In section 253 of the Income-tax Act, with effect from the 1st day of October, 1998,--

(a) in sub-section (1), in clause (a), after the words and brackets "Deputy Commissioner (Appeals)", the words, figures and letters "before the 1st day of October, 1998" shall be inserted;

(b) in sub-section (2), in clause (a), after the words and brackets "Deputy Commissioner (Appeals)", the words, figures and letters "before the 1st day of October, 1998" shall be inserted;

(c) for sub-section (6), the following sub-sections shall be substituted, namely:--

"(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, in the case of an appeal made, on or after the 1st day of October, 1998, irrespective of the date of initiation of the assessment proceedings relating thereto, be accompanied by a fee of,--

(a) where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates, is one hundred thousand rupees or less, five hundred rupees,

(b) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, one thousand five hundred rupees,

(c) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two hundred thousand rupees, one per cent. of the assessed income, subject to a maximum of ten thousand rupees:

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4).

(7) An application for stay of demand shall be accompanied by a fee of five hundred rupees."

Amendment
of section
254.

53. In section 254 of the Income-tax Act, in sub-section (2), after the first proviso, the following proviso shall be inserted with effect from the 1st day of October, 1998, namely:--

"Provided further that any application filed by the assessee in this sub-section on or after the 1st day of October, 1998, shall be accompanied by a fee of fifty rupees."

Amendment
of section
255.

54. In section 255 of the Income-tax Act, in sub-section (3), for the words "does not exceed one hundred thousand rupees", the words "does not exceed five hundred thousand rupees" shall be substituted with effect from the 1st day of October, 1998.

Amendment
of section
256.

55. In section 256 of the Income-tax Act, in sub-section (1), for the words and figures "an order under section 254", the words, letters and figures "an order passed before the 1st day of October, 1998, under section 254" shall be substituted with effect from the 1st day of October, 1998.

56. In section 257 of the Income-tax Act, for the words and figures "an application made under section 256", the words, letter and figures "an application made against an order made under section 254 before the 1st day of October, 1998, under section 256" shall be substituted with effect from the 1st day of October, 1998.

Amendment
of section
257.

57. In section 260 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted with effect from the 1st day of October, 1998, namely:-

Amendment
of section
260.

"(1A) Where the High Court delivers a judgment in an appeal filed before it under section 260A, effect shall be given to the order passed on the appeal by the Assessing Officer on the basis of a certified copy of the judgment."

58. In Chapter XX of the Income-tax Act, after sub-heading 'C', the following sub-heading and sections shall be inserted with effect from the 1st day of October, 1998, namely:-

Insertion of
new sub-
heading and
sections in
Chapter XX.

"CC. Appeals to High Court"

260A. (1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

Appeal to
High Court

(2) An appeal under this section shall be—

(a) filed within one hundred and twenty days from the date on which the order appealed against is communicated to the appellant;

(b) accompanied by a fee of ten thousand rupees where such appeal is filed by an assessee;

(c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which—

(a) has not been determined by the Appellate Tribunal; or

(b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (1).

260B. (1) When an appeal has been filed before the High Court under section 260A, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

Case before
High Court to
be heard by
not less than
two Judges.

(2) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

Amendment
of section
251.

59. In section 261 of the Income-tax Act, for the words and figures "delivered on a reference made under section 256", the words, figures and letters "delivered on a reference made under section 256 against an order made under section 254 before the 1st day of October, 1998 or an appeal made to High Court in respect of an order passed under section 254 on or after that date" shall be substituted with effect from the 1st day of October, 1998.

Amendment
of section
264.

60. In section 264 of the Income-tax Act, after sub-section (5), the following sub-sections shall be inserted with effect from the 1st day of October, 1998, namely:-

"(6) On every application by an assessee for revision under this sub-section, made on or after the 1st day of October, 1998, an order shall be passed within one year from the end of the financial year in which such application is made by the assessee for revision.

Explanation.—In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

(7) Notwithstanding anything contained in sub-section (6), an order in revision under sub-section (6) may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court."

Substitution
of new
section for
section 271F.

61. For section 271F of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1999, namely:-

Penalty for
failure to
furnish return
of income.

"271F. If a person who is required to furnish a return of his income, as required under sub-section (1) of section 139, fails to furnish such return before the end of the relevant assessment year, he shall be liable to pay, by way of penalty, a sum of one thousand rupees:

Provided that a person who is required to furnish a return of his income, as required by the proviso to sub-section (1) of section 139, fails to furnish such return on or before the due date, he shall be liable to pay, by way of penalty, a sum of five hundred rupees."

Amendment
of section
272A.

62. In section 272A of the Income-tax Act, in sub-section (2), in the proviso, after the words "in relation to", the words, figures and letter "a declaration mentioned in section 197A, a certificate as required by section 203 and" shall be inserted with effect from the 1st day of April, 1999.

Amendment
of section
285B.

63. In section 285B of the Income-tax Act, for the words "five thousand rupees", the words "twenty-five thousand rupees" shall be substituted with effect from the 1st day of April, 1999.

Amendment
of First
Schedule.

64. In the First Schedule to the Income-tax Act, in rule 5, in clause (a), for the words "any expenditure or allowance", the words "any expenditure or allowance including any amount debited to the profit and loss account either by way of a provision for any tax, dividend, reserve or any other provision as may be prescribed" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989.

Consequen-
tial amend-
ments.

65. The following amendments (being consequential in nature) shall be made in the Income-tax Act, namely:-

(a) in sections 119, 154, 177, 189, 267, 271, 271A, 275 and 295, the words and brackets "Deputy Commissioner (Appeals) or the", wherever they occur, shall be omitted with effect from the 1st day of October, 1998;

(b) in sections 248, 250, 251 and 287, the words and brackets "Deputy Commissioner (Appeals) or, as the case may be, the" shall be omitted with effect from the 1st day of October, 1998.

Wealth-tax

27 of 1957.

66. In the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), save as otherwise expressly provided in the Wealth-tax Act and unless the context otherwise requires, the reference to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of October, 1998 by reference to the authority or authorities specified in the corresponding entry in column (2) of the said Table and such consequential changes as the rules of grammar may require shall also be made:

TABLE

(1)	(2)
1. Assistant Commissioner	Assistant Commissioner or Deputy Commissioner.
2. Assistant Director	Assistant Director or Deputy Director.
3. Deputy Commissioner	Joint Commissioner.
4. Deputy Director	Joint Director.

67. In section 2 of the Wealth-tax Act,—

Amendment of section 2.

(a) for clause (ca), the following clause shall be substituted with effect from the 1st day of October, 1998, namely:—

“(ca) “Assessing Officer” means the Deputy Commissioner of Income-tax or the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of the Income-tax Act which apply for the purposes of wealth-tax under section 8 of this Act and also the Joint Commissioner who is directed under clause (b) of sub-section (4) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act;”

(b) in clause (ea) with effect from the 1st day of April, 1999,—

(i) for sub-clause (i), the following sub-clause shall be substituted, namely:—

“(i) any building or land appurtenant thereto (hereinafter referred to as “house”), whether used for residential or commercial purposes or for the purpose of maintaining a guest house or otherwise including a farm house situated within twenty-five kilometres from local limits of any municipality (whether known as Municipality, Municipal Corporation or by any other name) or a Cantonment Board, but does not include—

(1) a house meant exclusively for residential purposes and which is allotted by a company to an employee or an officer or a director who is in whole-time employment, having a gross annual salary of less than five lakh rupees;

(2) any house for residential or commercial purposes which forms part of stock-in-trade;

(3) any house which the assessee may occupy for the purposes of any business or profession carried on by him;

(4) any residential property that has been let-out for a minimum period of three hundred days in the previous year;

(5) any property in the nature of commercial establishments or complexes;”

(ii) after clause (vi), in the Explanation, in clause (b), in sub-clause (ii), for the words “or any land held by the assessee as stock-in-trade for a period of five years from the date of its acquisition by him”, the words “or any land held by the assessee as stock-in-trade for a period of ten years from the date of its acquisition by him” shall be substituted;

(c) for clause (s), the following clause shall be substituted with effect from the 1st day of October, 1998, namely:—

“(s) the expressions “Chief Commissioner, Director-General, Commissioner, Commissioner (Appeals), Director, Additional Director of Income-tax, Additional Commissioner of Income-tax, Joint Director, Joint Commissioner of Income-tax, Deputy Director, Deputy Commissioner, Assistant Commissioner, Assistant-Director, Income-tax Officer, Inspector of Income-tax and Tax Recovery Officer” shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.”

68. In section 5 of the Wealth-tax Act, with effect from the 1st day of April, 1999,—

Amendment of section 5.

(a) in the proviso to clause (i), the words, brackets, figures and letter “clause (22) or clause (22A) or” shall be omitted;

(b) for clause (vi), the following clause shall be substituted, namely:—

'(vi) one house or part of a house or a plot of land belonging to an individual or a Hindu undivided family:

Provided that wealth-tax shall not be payable by an assessee in respect of an asset being a plot of land comprising an area of five hundred square meters or less.

Insertion of
new section
23A.
Appealable
orders before
Commissioner
(Appeals).

69. After section 23 of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1998, namely:-

'23A. (1) Any person-

- (a) objecting to the amount of net wealth determined under this Act; or
- (b) objecting to the amount of wealth-tax determined as payable by him under this Act; or
- (c) denying his liability to be assessed under this Act; or
- (d) objecting to any penalty imposed by the Assessing Officer under section 18 or section 18A; or
- (e) objecting to any order of the Assessing Officer under sub-section (2) of section 20; or
- (f) objecting to any penalty imposed by the Assessing Officer under the provisions of section 221 of the Income-tax Act as applied under section 32 for the purposes of wealth-tax; or
- (g) objecting to any order made by the Assessing Officer under section 22 treating him as the agent of a person residing outside India; or
- (h) objecting to any order of the Assessing Officer under section 35 having the effect of enhancing the assessment or reducing a refund or refusing to allow the claim made by the assessee under the said section; or
- (i) objecting to any order of the Valuation Officer under section 35 having the effect of enhancing the valuation of any asset or refusing to allow the claim made by the assessee under the said section; or
- (j) objecting to any penalty imposed by the Deputy Director or Deputy Commissioner under section 18A,

may appeal to the Commissioner (Appeals) against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner and on payment of a fee of two hundred and fifty rupees.

Explanation.-For the purposes of this sub-section, where on or before the 1st day of October, 1998, the post of Deputy Commissioner has been redesignated as Joint Commissioner and the post of Deputy Director has been redesignated as Joint Director, the references in this sub-section for "Deputy Commissioner" and "Deputy Director" shall be substituted by "Joint Commissioner" and "Joint Director" respectively.

(2) Notwithstanding anything contained in sub-section (1) of section 23, every appeal under this Act which is pending immediately before the appointed day, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on that day to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeals or matter from the stage on which it was on that day:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceedings or any part thereof be re-opened or that he be re-heard.

Explanation.-For the purposes of this sub-section, "appointed day" means the day appointed under section 246A of the Income-tax Act.

(3) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to or the day on which any order objected to is communicated to him, but the Commissioner (Appeals) may admit an appeal after the expiration of the period aforesaid, if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(4) Where a return has been filed by an assessee, no appeal under this section shall be admitted unless at the time of filing of the appeal, he has paid the tax due on the net wealth returned by him.

(5) The Commissioner (Appeals) shall fix a day and place for the hearing of the appeal and may, from time to time, adjourn the hearing.

(6) If the valuation of any asset is objected to in an appeal under clause (a) or clause (i) of sub-section (1), the Commissioner (Appeals) shall,-

(a) in case where such valuation has been made by a Valuation Officer under section 16A, give such Valuation Officer an opportunity of being heard;

(b) in any other case on request being made in this behalf by the Assessing Officer, give an

opportunity of being heard to any Valuation Officer nominated for the purpose by the Assessing Officer.

(7) The Commissioner (Appeals) may,—

(a) at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal;

(b) before disposing of any appeal, make such further enquiry as he thinks fit or cause further enquiry to be made by the Assessing Officer or, as the case may be, by the Valuation Officer.

(8) In disposing of an appeal, the Commissioner (Appeals) may pass such order as he thinks fit which may include an order enhancing the assessment or penalty:

Provided that no order enhancing the assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(9) In disposing of an appeal, the Commissioner (Appeals) may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not placed before the Commissioner (Appeals) by the appellant.

(10) The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determining the decision thereon and reasons for the decision.

(11) A copy of every order passed by the Commissioner (Appeals) under this section shall be forwarded to the appellant and the Chief Commissioner or Commissioner.

70. In section 24 of the Wealth-tax Act, with effect from the 1st day of October, 1998,—

Amendment
of section 24.

(a) in sub-section (1), after the word and figures "section 23", the word, figures and letter, "section 23A" shall be inserted;

(b) in sub-section (2), for the words, brackets and figures "a Deputy Commissioner (Appeals) or a Commissioner (Appeals) under section 23", the words, brackets, figures and letter "a Commissioner (Appeals) under sub-section (10) of section 23A" shall be substituted;

(c) in sub-section (2A), the words and brackets "the Deputy Commissioner (Appeals) or", at both the places where they occur, shall be omitted;

(d) in sub-section (4), for the words "two hundred rupees", the words "one thousand rupees" shall be substituted.

71. In section 25 of the Wealth-tax Act, with effect from the 1st day of October, 1998,—

Amendment of
section 25.

(a) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) On every application made by an assessee for revision under sub-section (1), an order shall be passed by the Commissioner within one year from the end of financial year in which such application is made by the assessee for revision.

Explanation.—In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded."

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Notwithstanding anything contained in sub-section (3) or sub-section (3A), an order in revision under sub-section (1) or sub-section (2) may be passed at any time in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court."

72. After section 27 of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1998, namely:—

Insertion of new
"section 27A.

"27A. (1) The assessee or the Chief Commissioner or Commissioner may, within one hundred and twenty days of the day upon which he is served with notice of an order under section 24 or section 26 or clause (e) of sub-section (1) of section 35, file on or after the 1st day of October, 1998, an appeal before the High Court.

(2) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, under sub-section (1) of section 24 only if the High Court is satisfied that the case involves a substantial question of law.

(3) In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal, and, where the appeal is made by the assessee, shall be accompanied by a fee of five thousand rupees.

(4) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(5) The appeal shall be heard only on the question so formulated and the respondent shall, at the time of hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(6) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(7) The Assessing Officer shall give effect to the order of the High Court on the basis of a certified copy of judgment delivered under sub-section (6)."

Amendment of section 28. 73. In section 28 of the Wealth-tax Act, for the words and figures "under section 27", the words, figures and letter "under section 27 or an appeal filed before the High Court under section 27A" shall be substituted with effect from the 1st day of October, 1998.

Amendment of section 29. 74. In section 29 of the Wealth-tax Act, with effect from the 1st day of October, 1998,—

(a) in sub-section (1), for the words and figures "under section 27", the words, figures and letter "under section 27 or an appeal filed under section 27A" shall be substituted;

(b) in sub-section (2), after the word and figures "section 27", the words, brackets, figures and letter "or in sub-section (7) of section 27A" shall be inserted.

Gift-tax

Amendment of section 3. 75. In the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act), in section 3, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of October, 1998, namely:—

18 of 1958.

"(3) Notwithstanding anything contained in sub-section (2), the provisions of this Act shall cease to apply and shall have no effect whatsoever in respect of any gift made on or after the 1st day of October, 1998."

Application of the provisions of the Wealth-tax Act. 76. (1) The provisions of sections 23, 24, 25, 28 and 29 of the Wealth-tax Act as amended and section 27A as inserted, by the Finance (No. 2) Act, 1998, shall apply with necessary modification as if the said provisions were referred to in the Gift-tax Act instead of the Wealth-tax Act.

(2) The Wealth-tax authorities as substituted by section 66 of the Finance (No. 2) Act, 1998 shall be deemed to be the Gift-tax authorities for the purposes of the Gift-tax Act.

Interest-tax

Amendment of section 3. 77. In section 3 of the Interest-tax Act, 1974 (hereinafter referred to as the Interest-tax Act), in sub-section (3), with effect from the 1st day of October, 1998,—

45 of 1974.

(a) after the words "Assistant Commissioner", the words "or Deputy Commissioner" shall be inserted;

(b) for the words "Deputy Commissioner", the words "Joint Commissioner" shall be substituted.

Amendment of section 15. 78. In section 15 of the Interest-tax Act, for sub-section (2), the following sub-section shall be substituted with effect from the 1st day of October, 1998, namely:—

"(2) Every appeal filed on or after the 1st day of October, 1998 shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of two hundred and fifty rupees."

Amendment of section 16. 79. In section 16 of the Interest-tax Act, in sub-section (5), for the words "two hundred rupees", occurring at the end, the words, figures and letters "one thousand rupees in the case of an appeal filed on or after the 1st day of October, 1998" shall be substituted.

Amendment of section 20. 80. In section 20 of the Interest-tax Act, after sub-section (5), the following sub-sections shall be inserted with effect from the 1st day of October, 1998, namely:—

"(6) On every application by an assessee for revision under this sub-section, made on or after the 1st day of October, 1998, an order shall be passed within one year from the end of the financial year in which such application is made by the assessee for revision.

Explanation.—In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 21 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

(7) Notwithstanding anything contained in sub-section (6), an order in revision under sub-section (6) may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court."

Expenditure-tax

35 of 1987.

81. In the Expenditure-tax Act, 1987 (hereinafter referred to as the Expenditure-tax Act), in section 3, in sub-section (1), for the words "one thousand two hundred rupees", the words "two thousand rupees" shall be substituted with effect from the 1st day of October, 1998. Amendment of section 3.

82. In section 6 of the Expenditure-tax Act, with effect from the 1st day of October, 1998,—

(a) in sub-section (1), after the words "Additional Commissioner of Income-tax", the words "Joint Director of Income-tax, Joint Commissioner of Income-tax" shall be inserted;

(b) in sub-section (3), for the words "Deputy Commissioner", the words "Joint Commissioner" shall be substituted.

83. In section 21 of the Expenditure-tax Act, after sub-section (5), the following sub-sections shall be inserted with effect from the 1st day of October, 1998, namely:— Amendment of section 21.

"(6) On every application by an assessee for revision under this sub-section, made on or after the 1st day of October, 1998, an order shall be passed within one year from the end of the financial year in which such application is made by the assessee for revision.

Explanation.—In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 24 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

(7) Notwithstanding anything contained in sub-section (6), an order in revision under that sub-section may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court."

84. In section 22 of the Expenditure-tax Act, for sub-section (2), the following sub-section shall be substituted with effect from the 1st day of October, 1998, namely:— Amendment of section 22.

"(2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner and in respect of appeals filed on or after the 1st day of October, 1998, shall be accompanied by a fee of two hundred and fifty rupees."

85. In section 23 of the Expenditure-tax Act, in sub-section (6), for the words occurring at the end "a fee of two hundred rupees", the words, figures and letters "a fee of one thousand rupees in the case of appeals filed on or after the 1st day of October, 1998" shall be substituted with effect from the 1st day of October, 1998. Amendment of section 23.

CHAPTER IV

KAR VIVAD SAMADHAN SCHEME, 1998

86. (1) This Scheme may be called the Kar Vivad Samadhan Scheme, 1998.

(2) It shall come into force on the 1st day of September, 1998. Short title and commencement.

87. In this Scheme, unless the context otherwise requires,—

Definitions.

(a) "declarant" means a person making a declaration under section 88;

(b) "designated authority" means,—

(i) where the tax arrear is under any direct tax enactment, an officer not below the rank of Commissioner of Income-tax and notified by the Chief Commissioner for the purposes of this Scheme;

(ii) where the tax arrear payable is under any indirect tax enactment, an officer not below the rank of Commissioner of Customs or the Commissioner of Central Excise and notified by the Chief Commissioner for the purposes of this Scheme;

(c) "disputed chargeable expenditure", in relation to an assessment year, means the whole or so much of the chargeable expenditure as is relatable to the disputed tax;

(d) "disputed chargeable interest", in relation to an assessment year, means the whole or so much of the chargeable interest as is relatable to the disputed tax;

(e) "disputed income", in relation to an assessment year, means the whole or so much of the total income as is relatable to the disputed tax;

(f) "disputed tax" means the total tax determined and payable, in respect of an assessment year under any direct tax enactment but which remains unpaid as on the date of making the declaration under section 88;

(g) "disputed wealth", in relation to an assessment year, means the whole or so much of the net wealth as is relatable to the disputed tax;

(h) "direct tax enactment" means the Wealth-tax Act, 1957 or the Gift-tax Act, 1958 or the Income-tax Act, 1961 or the Interest-tax Act, 1974 or the Expenditure-tax Act, 1987;

27 of 1957.
18 of 1958.
43 of 1961.
45 of 1974.
35 of 1987.

(i) "disputed value of gift", in relation to an assessment year, means the whole or so much of the value of gift as is relatable to the disputed tax;

(j) "indirect tax enactment" means the Customs Act, 1962 or the Central Excise Act, 1944 or the Customs Tariff Act, 1975 or the Central Excise Tariff Act, 1985 or the relevant Act and includes the rules or regulations made under such enactment;

52 of 1962.
1 of 1944.
51 of 1975.
5 of 1986.

(k) "person" includes—

(i) an individual,

(ii) a Hindu undivided family,

(iii) a company,

(iv) a firm,

(v) an association of persons or a body of individuals, whether incorporated or not,

(vi) a local authority,

(vii) every artificial juridical person, not falling within any of the preceding sub-clauses,

(viii) assessee, as defined in rule 2 of the Central Excise Rules, 1944,

(ix) exporter as defined in clause (20) of section 2 of the Customs Act, 1962,

(x) importer as defined in clause (26) of section 2 of the Customs Act, 1962,

(xi) any person against whom proceedings have been initiated and are pending under any direct tax enactment or indirect tax enactment;

1 of 1944.
52 of 1962.
52 of 1962.

(l) "relevant Act" means an Act specified in the Schedule to this Scheme;

(m) "tax arrear" means,—

(i) in relation to direct tax enactment, the amount of tax, penalty or interest determined on or before the 31st day of March, 1998 under that enactment in respect of an assessment year as modified in consequence of giving effect to an appellate order but remaining unpaid on the date of declaration;

(ii) in relation to indirect tax enactment,—

(a) the amount of duties (including drawback of duty, credit of duty or any amount representing duty), cesses, interest, fine or penalty determined as due or payable under that enactment as on the 31st day of March, 1998 but remaining unpaid as on the date of making a declaration under section 88; or

(b) the amount of duties (including drawback of duty, credit of duty or any amount representing duty), cesses, interest, fine or penalty which constitutes the subject matter of a demand notice or a show-cause notice issued on or before the 31st day of March, 1998 under that enactment but remaining unpaid on the date of making a declaration under section 88,

but does not include any demand relating to erroneous refund and where a show-cause notice is issued to the declarant in respect of seizure of goods and demand of duties, the tax arrear shall not include the duties on such seized goods where such duties on the seized goods have not been quantified.

Explanation.—Where a declarant has already paid either voluntarily or under protest, any amount of duties, cesses, interest, fine or penalty specified in this sub-clause, on or before the date of making a declaration by him under section 88 which includes any deposit made by him pending any appeal or in pursuance of a court order in relation to such duties, cesses, interest, fine or penalty, such payment shall not be deemed to be the amount unpaid for the purposes of determining tax arrear under this sub-clause;

(n) all other words and expressions used and not defined in this scheme but defined in any direct tax enactment or indirect tax enactment shall have the meanings respectively assigned to them in those enactments.

88. Subject to the provisions of this Scheme, where any person makes, on or after the 1st day of September, 1998 but on or before the 31st day of December, 1998, a declaration to the designated authority in accordance with the provisions of section 89 in respect of tax arrear, then, notwithstanding anything contained in any direct tax enactment or indirect tax enactment or any other provision of any law for the time being in force, the amount payable under this Scheme by the declarant shall be determined at the rates specified hereunder, namely:—

43 of 1961.

(a) where the tax arrear is payable under the Income-tax Act, 1961,—

(i) in the case of a declarant, being a company or a firm, at the rate of thirty-five per cent. of the disputed income;

(ii) in the case of a declarant, being a person other than a company or a firm, at the rate of thirty per cent. of the disputed income;

(iii) in the case where tax arrear includes income-tax, interest payable or penalty levied, at the rate of thirty-five per cent. of the disputed income for the persons referred to in clause (i) or thirty per cent. of the disputed income for the persons referred to in clause (ii);

(iv) in the case where tax arrear comprises only interest payable or penalty levied, at the rate of fifty per cent. of the tax arrear;

(v) where the tax arrear includes the tax, interest or penalty determined in any assessment on the basis of search and seizure proceedings under section 132 or section 132A of the Income-tax Act,—

(A) in the case of a declarant, being a company or a firm, at the rate of forty-five per cent. of the disputed income;

(B) in the case of a declarant, being a person other than a company or a firm, at the rate of forty per cent. of the disputed income;

27 of 1957.

(b) where the tax arrear is payable under the Wealth-tax Act, 1957,—

(i) at the rate of one per cent. of the disputed wealth;

(ii) in the case where tax arrear includes wealth-tax, interest or penalty levied, at the rate of one per cent. of the disputed wealth;

(iii) in the case where tax arrear includes only interest payable or penalty levied, at the rate of fifty per cent. of the tax arrear;

(iv) where the tax arrear includes the tax, interest or penalty determined in any assessment on the basis of search and seizure proceedings under section 37A or section 37B of the Wealth-tax Act, at the rate of two per cent. of the disputed wealth;

18 of 1958.

(c) where the tax arrear is payable under the Gift-tax Act, 1958,—

(i) at the rate of thirty per cent. of the disputed value of the gift;

(ii) in the case where the tax arrear includes gift-tax, interest payable thereon or penalty levied, at the rate of thirty per cent. of the disputed value of the gift;

(iii) where the tax arrear includes only the interest payable or the penalty levied, at the rate of fifty per cent. of the tax arrear;

35 of 1987.

(d) where the tax arrear is payable under the Expenditure-tax Act, 1987,—

(i) at the rate of ten per cent. of the disputed chargeable expenditure;

(ii) in the case where the tax arrear includes the disputed expenditure-tax, interest payable thereon and penalty levied, at the rate of ten per cent. of the disputed chargeable expenditure;

(iii) in the case where the tax arrear comprises only the interest payable or penalty levied, at the rate of fifty per cent. of the tax arrear;

45 of 1974.

(e) where the tax arrear is payable under the Interest-tax Act, 1974,—

(i) at the rate of two per cent. of the disputed chargeable interest;

(ii) in the case where tax arrear includes the interest payable thereon or penalty levied, at the rate of two per cent. of the tax arrear;

(iii) in the case where tax arrear comprises only the interest or penalty levied, at the rate of fifty per cent. of the tax arrear;

(f) where the tax arrear is payable under the Indirect tax enactment—

(i) in a case where the tax arrear comprises fine, penalty or interest but does not include duties (including drawback of duty, credit of duty or any amount representing duty) or cesses, at the rate of fifty per cent. of the amount of such fine, penalty or interest, due or payable as on the date of making a declaration under section 88;

(ii) in any other case, at the rate of fifty per cent. of the amount of duties (including drawback of duty, credit of duty or any amount representing duty) or cesses due or payable on the date of making a declaration under section 88.

Particulars to be furnished in declaration.

88. A declaration under section 88 shall be made to the designated authority and shall be in such form and shall be verified in such manner as may be prescribed.

Time and manner of payment of tax arrear.

90. (1) Within sixty days from the date of receipt of the declaration under section 88, the designated authority shall, by order, determine the amount payable by the declarant in accordance with the provisions of this Scheme and grant a certificate in such form as may be prescribed to the declarant setting forth therein the particulars of the tax arrear and the sum payable after such determination towards full and final settlement of tax arrears:

Provided that where any material particular furnished in the declaration is found to be false by the designated authority at any stage, it shall be presumed as if the declaration was never made and all the consequences under the direct tax enactment or indirect tax enactment under which the proceedings against the declarant are or were pending shall be deemed to have been revived:

Provided further that the designated authority may amend the certificate for reasons to be recorded in writing.

(2) The declarant shall pay the sum determined by the designated authority within thirty days of the passing of an order by the designated authority and intimate the fact of such payment to the designated authority alongwith proof thereof and the designated authority shall thereupon issue the certificate to the declarant.

(3) Every order passed under sub-section (1), determining the sum payable under this Scheme, shall be conclusive as to the matters stated therein and no matter covered by such order shall be reopened in any other proceeding under the direct tax enactment or indirect tax enactment or under any other law for the time being in force.

(4) Where the declarant has filed an appeal or reference or a reply to the show cause notice against any order or notice giving rise to the tax arrear before any authority or tribunal or court, then, notwithstanding anything contained in any other provisions of any law for the time being in force, such appeal or reference or reply shall be deemed to have been withdrawn on the day on which the order referred to in sub-section (2) is passed:

Provided that where the declarant has filed a writ petition or appeal or reference before any High Court or the Supreme Court against any order in respect of the tax arrear, the declarant shall file an application before such High Court or the Supreme Court for withdrawing such writ petition, appeal or reference and after withdrawal of such writ petition, appeal or reference with the leave of the Court, furnish proof of such withdrawal along with the intimation referred to in sub-section (2).

Immunity from prosecution and imposition of penalty in certain cases.

91. The designated authority shall, subject to the conditions provided in section 90, grant immunity from instituting any proceeding for prosecution for any offence under any direct tax enactment or indirect tax enactment, or from the imposition of penalty under any of such enactments, in respect of matters covered in the declaration under section 88.

Appellate authority not to proceed in certain cases.

92. No appellate authority shall proceed to decide any issue relating to the disputed chargeable expenditure, disputed chargeable interest, disputed income, disputed wealth, disputed value of gift or tax arrear specified in the declaration and in respect of which an order had been made under section 90 by the designated authority or the payment of the sum determined under that section:

Provided that in case an appeal is filed by a Department of the Central Government in respect of such issue relating to the disputed chargeable expenditure, disputed chargeable interest, disputed income, disputed wealth, disputed value of gift or tax arrear (except where the tax arrear comprises only penalty, fine or interest), the appellate authority shall decide the appeal irrespective of such declaration.

No refund of amount paid under the Scheme.

93. Any amount paid in pursuance of a declaration made under section 88 shall not be refundable under any circumstances.

Removal of doubts.

94. For the removal of doubts, it is hereby declared that, save as otherwise expressly provided in sub-section (3) of section 90, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant in any assessment or proceedings other than those in relation to which the declaration has been made.

Scheme not to apply in certain cases.

95. The provisions of this Scheme shall not apply—

(i) in respect of tax arrear under any direct tax enactment,—

(a) in a case where prosecution for concealment has been instituted on or before the date of filing of the declaration under section 88 under any direct tax enactment in respect of any assessment year, to any tax arrear in respect of such assessment year under such direct tax enactment or in respect of a person who has been convicted for concealment on or before the date of filing the declaration;

(b) in a case where an order has been passed by the Settlement Commission under sub-section (4) of section 245D of the Income-tax Act or sub-section (4) of section 22D of the Wealth-tax Act, as the case may be, for any assessment year, to any tax arrear in respect of such assessment year under such direct tax enactment;

(c) to a case where no appeal or reference or writ petition is admitted and pending before

any appellate authority or the High Court or the Supreme Court on the date of filing of declaration or no application for revision is pending before the Commissioner on the date of filing declaration;

(ii) In respect of tax arrear under any indirect tax enactment,—

(a) in a case where prosecution for any offence punishable under any provisions of any indirect tax enactment has been instituted on or before the date of filing of the declaration under section 88, in respect of any tax arrear in respect of such case under such indirect tax enactment;

(b) in a case where show cause notice or a notice of demand under any indirect tax enactment has not been issued;

(c) in a case where no appeal or reference or writ petition is admitted and pending before any appellate authority or the High Court or the Supreme Court or no application for revision is pending before the Central Government on the date of declaration made under section 88;

(iii) to any person in respect of whom prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Foreign Exchange Regulation Act, 1973, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Terrorists and Disruptive Activities (Prevention) Act, 1987, the Prevention of Corruption Act, 1988, or for the purpose of enforcement of any civil liability has been instituted on or before the filing of the declaration or such person has been convicted of any such offence punishable under any such enactment;

(iv) to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974:

Provided that—

(a) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(b) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9 of the said Act; or

(c) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or

(d) such order of detention has not been set aside by a court of competent jurisdiction;

(v) to any person notified under sub-section (2) of section 3 of the Special Court (Trial of Offences Relating to Transaction in Securities) Act, 1992.

96. (1) The Central Government may, from time to time, issue such orders, instructions and directions to the authorities, as it may deem fit, for the proper administration of this Scheme, and such authorities, and all other persons employed in the execution of this Scheme shall observe and follow such orders, instructions and directions of the Central Government:

Power of Central Government to issue directions.

Provided that no such orders, instructions or directions shall be issued so as to require any designated authority to dispose of a particular case in a particular manner.

(2) Without prejudice to the generality of the foregoing power, the Central Government may, if it considers necessary or expedient so to do, for the purpose of proper and efficient administration of the Scheme and collection of revenue, issue, from time to time, general or special orders in respect of any class of cases, setting forth directions or instructions as to the guidelines, principles or procedures to be followed by the authorities in the work relating to administration of the Scheme and collection of revenue and any such order may, if the Central Government is of the opinion that it is necessary in the public interest so to do, be published in the prescribed manner.

97. (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

98. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which a declaration may be made under section 88 and the manner in which such declaration may be verified;

(b) the form of certificate which may be granted under sub-section (1) of section 90;

(c) the manner in which the orders may be published under sub-section (2) of section 96;

45 of 1860.
48 of 1973.
61 of 1985.
28 of 1987.
49 of 1988.

52 of 1974.

27 of 1992.

(d) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) The Central Government shall cause every rule made under this Scheme to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 87(h)]

1. The Agricultural Produce Cess Act, 1940.
2. The Coffee Act, 1942.
3. The Mica Mines Labour Welfare Fund Act, 1946.
4. The Rubber Act, 1947.
5. The Industries (Development and Regulation) Act, 1951.
6. The Salt Cess Act, 1953.
7. The Tea Act, 1953.
8. The Medicinal and Toilet Preparations (Excise Duties) Act, 1955.
9. The Additional Duties of Excise (Goods of Special Importance) Act, 1957.
10. The Mineral Products (Additional Duties of Excise and Customs) Act, 1958.
11. The Sugar Export Promotion Act, 1958.
12. The Sugar (Special Excise Duty) Act, 1959.
13. The Sugar (Regulation of Production) Act, 1961.
14. The Textiles Committee Act, 1963.
15. The Produce Cess Act, 1966.
16. The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972.
17. The Marine Products Export Development Authority Act, 1972.
18. The Coal Mines (Conservation and Development) Act, 1974.
19. The Oil Industry (Development) Act, 1974.
20. The Tobacco Cess Act, 1975.
21. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976.
22. The Beedi Workers Welfare Cess Act, 1976.
23. The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978.
24. The Sugar Cess Act, 1982.
25. The Jute Manufacturers Cess Act, 1983.
26. The Agricultural and Processed Food Products Export Cess Act, 1985.
27. The Spices Cess Act, 1986.
28. Any other enactment imposing the auxiliary duty of customs or the special duty of excise.

CHAPTER V

INDIRECT TAXES

Customs

52 of 1962.

99. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), in section 25, after sub-section (3), the following sub-sections shall be inserted, namely:—

Amendment of section 25.

"(4) Every notification issued under sub-section (1) shall,—

(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;

(b) also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations of the Board, New Delhi.

(5) Notwithstanding anything contained in sub-section (4), where a notification comes into force on a date later than the date of its issue, the same shall be published and offered for sale by the said Directorate of Publicity and Public Relations on a date on or before the date on which the said notification comes into force."

100. In section 27 of the Customs Act, in sub-section (1), the *Explanation* shall be renumbered as *Explanation I* and after *Explanation I* as so renumbered, the following *Explanation* shall be inserted, namely:—

Amendment of section 27.

"*Explanation II* — Where any duty is paid provisionally under section 18, the limitation of one year or six months, as the case may be, shall be computed from the date of adjustment of duty after the final assessment thereof."

101. In the Customs Act, for sections 53 to 55, the following sections shall be substituted, namely:—

Substitution of new sections for sections 53 to 55.

"53. Subject to the provisions of section 11, any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or any customs station may be allowed to be so transited without payment of duty.

Transit of certain goods without payment of duty.

54. (1) Where any goods imported into a customs station are intended for transshipment, a bill of transshipment shall be presented to the proper officer in the prescribed form.

Transshipment of certain goods without payment of duty.

(2) Subject to the provisions of section 11, where any goods imported into a customs station are mentioned in the import manifest or the import report, as the case may be, as for transshipment to any place outside India, such goods may be allowed to be so transhipped without payment of duty.

(3) Where any goods imported into a customs station are mentioned in the import manifest or the import report, as the case may be, as for transshipment—

(a) to any major port as defined in the Indian Ports Act, 1908, or the customs airport at Mumbai, Calcutta, Delhi or Chennai or any other customs port or customs airport which the Board may, by notification in the Official Gazette, specify in this behalf, or

(b) to any other customs station and the proper officer is satisfied that the goods are bonafide intended for transshipment to such customs station,

the proper officer may allow the goods to be transhipped, without payment of duty, subject to such conditions as may be prescribed for the due arrival of such goods at the customs station to which transshipment is allowed.

55. Where any goods are allowed to be transited under section 53 or transhipped under sub-section (3) of section 54 to any customs station, they shall, on their arrival at such station, be liable to duty and shall be entered in like manner as goods are entered on the first importation thereof and the provisions of this Act and any rules and regulations shall, so far as may be, apply in relation to such goods."

Liability of duty on goods transited under section 53 or transhipped under section 54.

102. In the Customs Act, after Chapter XIV, the following Chapter shall be inserted, namely:—

Insertion of new Chapter XIV A.

CHAPTER XIV A

SETTLEMENT OF CASES

127A. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) "Bench" means a Bench of the Settlement Commission;

(b) "case" means any proceeding under this Act or any other Act for the levy, assessment and collection of customs duty, or any proceeding by way of appeal or revision in connection with such levy, assessment or collection, which may be pending before a proper officer or the Central Government on the date on which an application under sub-section (1) of section 127B is made:

Provided that where any appeal or application for revision has been preferred after the expiry of the period specified for the filing of such appeal or application for revision under this Act and which has not been admitted, such appeal or revision shall not be deemed to be a proceeding pending within the meaning of this clause;

(c) "Chairman" means the Chairman of the Settlement Commission;

(d) "Commissioner (Investigation)" means an officer of the customs or a Central Excise Officer appointed as such Commissioner to conduct inquiry or investigation for the purposes of this Chapter;

(e) "Member" means a Member of the Settlement Commission and includes the Chairman and the Vice-Chairman;

(f) "Settlement Commission" means the Customs and Central Excise Settlement Commission constituted under section 32 of the Central Excise Act, 1944; and

(g) "Vice-Chairman" means a Vice-Chairman of the Settlement Commission.

1 of 1944.

Application for
settlement of
cases.

127B. (1) Any importer, exporter or any other person (hereafter in this Chapter referred to as the applicant) may, at any stage of a case relating to him, make an application in such form and in such manner as may be specified by rules, and containing a full and true disclosure of his duty liability which has not been disclosed before the proper officer, the manner in which such liability has been incurred, the additional amount of customs duty accepted to be payable by him and such other particulars as may be specified by rules including the particulars of such dutiable goods in respect of which he admits short levy on account of misclassification or otherwise of goods, to the Settlement Commission to have the case settled and such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless—

(a) the applicant has filed a bill of entry, or a shipping bill, in respect of import or export of goods, as the case may be, or a show cause notice has been issued to him by the proper officer;

(b) the additional amount of duty accepted by the applicant in his application exceeds two lakh rupees:

Provided further that no application shall be entertained by the Settlement Commission under this sub-section in cases which are pending in the Appellate Tribunal or any Court:

Provided also that no application under this sub-section shall be made in relation to goods to which section 123 applies or to goods in relation to which any offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 has been committed:

61 of 1985.

Provided also that no application under this sub-section shall be made for the interpretation of the classification of the goods under the Customs Tariff Act, 1975.

51 of 1975.

(2) Where any dutiable goods, books of account, other documents or any sale proceeds of the goods have been seized under section 110, the applicant shall not be entitled to make an application under sub-section (1) before the expiry of one hundred and eighty days from the date of the seizure.

(3) Every application made under sub-section (1) shall be accompanied by such fees as may be specified by rules.

(4) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

Procedure on
receipt of
application
under section
127B.

127C. (1) On receipt of an application under section 127B, the Settlement Commission shall call for a report from the Commissioner of Customs having jurisdiction and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Commission may, by order, allow the application to be proceeded with or reject the application:

Provided that an application shall not be rejected under this sub-section, unless an opportunity has been given to the applicant of being heard:

Provided further that the Commissioner of Customs shall furnish such report within a period of one month of the receipt of the communication from the Settlement Commission, failing which it shall be presumed that the Commissioner of Customs has no objection to such application; but he may raise objections at the time of hearing fixed by the Settlement Commission for admission of the application and the date of such hearing shall be communicated by the Settlement Commission to the applicant and the Commissioner of Customs within a period not exceeding two months from the

date of receipt of such application, unless the presiding officer of the Bench extends the said period of two months, after recording the reasons in writing.

(2) A copy of every order under sub-section (1) shall be sent to the applicant and to the Commissioner of Customs having jurisdiction.

(3) Subject to the provisions of sub-section (4), the applicant shall, within thirty days of the receipt of a copy of the order under sub-section (1) allowing the application to be proceeded with, pay the amount of additional duty admitted by him as payable and shall furnish proof of such payment to the Settlement Commission.

(4) If the Settlement Commission is satisfied, on an application made under sub-section (1) that the applicant is unable for good and sufficient reasons to pay the amount referred to in sub-section (3), within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments, if the applicant furnishes adequate security for the payment thereof.

(5) Where the additional amount of customs duty referred to in sub-section (3) is not paid by the applicant within the time specified or extended period, as the case may be, the Settlement Commission may direct that the amount which remains unpaid, together with simple interest at the rate of eighteen per cent. per annum or at the rate notified by the Board from time to time on the amount remaining unpaid, be recovered as the sum due to the Central Government by the proper officer having jurisdiction over the applicant in accordance with the provisions of section 142.

(6) Where an application is allowed to be proceeded with under sub-section (1), the Settlement Commission may call for the relevant records from the Commissioner of Customs having jurisdiction and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner (Investigation) to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case.

(7) After examination of the records and the report of the Commissioner of Customs received under sub-section (1), and the report, if any, of the Commissioner (Investigation) of the Settlement Commission under sub-section (6), and after giving an opportunity to the applicant and to the Commissioner of Customs having jurisdiction to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner of Customs or the Commissioner (Investigation) under sub-section (1) or sub-section (6).

(8) Subject to the provisions of section 32A of the Central Excise Act, 1944, the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (7) and, in relation to the passing of such order, the provisions of section 32D of the Central Excise Act, 1944 shall apply.

(9) Every order passed under sub-section (7) shall provide for the terms of settlement including any demand by way of duty, penalty or interest, the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud, or misrepresentation of facts.

(10) Where any duty payable in pursuance of an order under sub-section (7) is not paid by the applicant within thirty days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such duty or has allowed payment thereof by instalments, the applicant shall be liable to pay simple interest at the rate of eighteen per cent. per annum or at such other rate as notified by the Board on the amount remaining unpaid from the date of expiry of the period of thirty days aforesaid.

(11) Where a settlement becomes void as provided under sub-section (9) the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and proper officer may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the date of the receipt of communication that the settlement became void.

127D. (1) Where, during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in such manner as may be specified by rules.

(2) Every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect from the date the sums due to the Central Government for which such attachment is made are discharged by the applicant and evidence to that effect is submitted to the Settlement Commission.

Power of
Settlement
Commission to
order provi-
sional
attachment to
protect
revenue.

Power of Settlement Commission to reopen completed proceedings.

127E. If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act before application for settlement under section 127B was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also:

Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of five years from the date of application under sub-section (1) of section 127B.

Power and procedure of Settlement Commission.

127F. (1) In addition to the powers conferred on the Settlement Commission under Chapter V of the Central Excise Act, 1944, it shall have all the powers which are vested in an officer of the customs under this Act or the rules made thereunder.

1 of 1944.

(2) Where an application made under section 127B has been allowed to be proceeded with under section 127C, the Settlement Commission shall, until an order is passed under sub-section (7) of section 127C, have, subject to the provisions of sub-section (6) of that section, exclusive jurisdiction to exercise the powers and perform the functions of any officer of customs or Central Excise Officer as the case may be, under this Act or in the Central Excise Act, 1944, as the case may be, in relation to the case.

1 of 1944.

(3) In the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matter other than those before the Settlement Commission.

(4) The Settlement Commission shall, subject to the provisions of Chapter V of the Central Excise Act, 1944 and this Chapter, have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers, or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

1 of 1944.

Inspection, etc., of reports.

127G. No person shall be entitled to inspect, or obtain copies of, any report made by any officer of the Customs to the Settlement Commission; but the Settlement Commission may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of such fee as may be specified by rules:

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on record against him in any such report, the Settlement Commission shall, on an application made in this behalf, and on payment by such person of such fee as may be specified by rules, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

Power of Settlement Commission to grant immunity from prosecution and penalty.

127H. (1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 127B has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his duty liability, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force and also either wholly or in part from the imposition of any penalty, fine and interest under this Act, with respect to the case covered by the settlement:

45 of 1860.

Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 127B.

(2) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under sub-section (7) of section 127C within the time specified in such order or within such further time as may be allowed by the Settlement Commission, or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(3) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particulars, material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

Power of Settlement Commission to send a case back to the proper officer.

127I. (1) The Settlement Commission may, if it is of opinion that any person who made an application for settlement under section 127B has not co-operated with the Settlement Commission in the proceedings before it, send the case back to the proper officer who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under section 127B had been made.

(2) For the purpose of sub-section (1), the proper officer shall be entitled to use all the materials and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before such proper officer or held or recorded by him in the course of the proceedings before him.

(3) For the purposes of the time limit under section 28 and for the purposes of interest under section 28AA, in a case referred to in sub-section (1), the period commencing on and from the date of the application to the Settlement Commission under section 127B and ending with the date of receipt by the officer of customs of the order of the Settlement Commission sending the case back to the officer of customs shall be excluded.

127J. Every order of settlement passed under sub-section (7) of section 127C shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

Order of settlement to be conclusive.

127K. Any sum specified in an order of settlement passed under sub-section (7) of section 127C may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered as sums due to the Central Government in accordance with the provisions of section 142, by the proper officer having jurisdiction over the applicant.

Recovery of sums due under order of settlement.

127L. Where,—

(i) an order of settlement passed under sub-section (7) of section 127C provides for the imposition of a penalty on the applicant under section 127B for settlement, on the ground of concealment of particulars of his duty liability; or

Bar on subsequent application for settlement in certain cases.

(ii) after the passing of an order of settlement under said sub-section (7) in relation to a case, such person is convicted of any offence under this Act in relation to that case; or

(iii) the case of such person is sent back to the proper officer by the Settlement Commission under section 127-I,

then such person shall not be entitled to apply for settlement under section 127B in relation to any other matter.

127M. Any proceedings under this Chapter before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code.

Proceedings before Settlement Commission to be judicial proceedings. Application of certain provisions of Central Excise Act. Additional duty of customs (motor spirit).

45 of 1860.

1 of 1944.

127N. The provisions of Chapter V of the Central Excise Act, 1944 in so far as it is not inconsistent with the provisions of this Chapter shall apply in relation to proceedings before the Settlement Commission under this Chapter."

103. (1) In the case of goods specified in the Second Schedule, being goods imported into India, there shall be levied and collected as an additional duty of customs an amount calculated at the rate set forth in the said Schedule.

(2) The additional duty of customs referred to in sub-section (1) shall be in addition to any other duties of customs chargeable on such goods under the Customs Act, or any other law for the time being in force.

(3) The provisions of the Customs Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the additional duty of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

104. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act),—

Amendment of Act 51 of 1975.

(a) after section 3, the following section shall be inserted, namely:—

"3A. (1) Any article which is imported into India shall in addition be liable to a duty (hereafter in this section referred to as the special additional duty), which shall be levied at a rate to be specified by the Central Government, by notification in the Official Gazette, having regard to the maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India:

Special additional duty.

Provided that until such rate is specified by the Central Government, the special additional duty shall be levied and collected at the rate of eight per cent. of the value of the article imported into India.

Explanation.— In this sub-section, the expression "maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India" means the maximum sales-tax, local tax, other charges for the time being in force, which shall be leviable on a like article, if sold or purchased in India, or if a like article is not so sold or purchased which shall be leviable on the class or description of articles to which the imported article belongs.

(2) For the purpose of calculating under this section the special additional duty on any imported article, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962 or section 3 of this Act, be the aggregate of—

52 of 1962.

(i) the value of the imported article determined under sub-section (1) of section 14 of the Customs Act, 1962 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be;

52 of 1962.

(ii) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but not including the special additional duty referred to in sub-section (1); and

52 of 1962.

(iii) the additional duty of customs chargeable on that article under section 3 of this Act.

(3) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(4) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties shall, so far as may be, apply to the duty chargeable under this section as they apply in relation to the duties leviable under that Act.

52 of 1962.

(5) Nothing contained in this section shall apply to any article, which is chargeable to additional duties levied under sub-section (1) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;

58 of 1957.

(b) the First Schedule shall be amended in the manner specified in the Third Schedule.

Excise

Amendment of section 4A. 105. In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in section 4A, for *Explanation 1*, the following *Explanation* shall be substituted, namely:—

1 of 1944.

'Explanation 1.— For the purposes of this section, "retail sale price" means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and includes all taxes local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like, as the case may be, and the price is the sole consideration for such sale.'

Amendment of section 5A. 106. In the Central Excise Act, in section 5A, after sub-section (4), the following sub-sections shall be inserted, namely:—

(5) Every notification issued under sub-section (1) shall,—

(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;

(b) also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations, Customs and Central Excise, New Delhi, under the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963.

54 of 1963.

(6) Notwithstanding anything contained in sub-section (5), where a notification comes into force on a date later than the date of its issue, the same shall be published and offered for sale by the said Directorate of Publicity and Public Relations on a date on or before the date on which the said notification comes into force.

Amendment of section 9. 107. In the Central Excise Act, in section 9, in sub-section (1), after clause (bbb), the following clause shall be inserted, namely:—

"(bbbb) contravenes any of the provisions of this Act or the rules made thereunder in relation to credit of any duty allowed to be utilised towards payment of excise duty on final products;"

Amendment of section 11B. 108. In the Central Excise Act, in section 11B, in the Explanation, in clause (B), after sub-clause (aa), the following sub-clause shall be inserted, namely:—

"(ab) in case where duty of excise is paid provisionally under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof;"

109. In the Central Excise Act, with effect from such date as the Central Government may, by Amendment of notification in the Official Gazette, appoint, in section 35B, in sub-section (1), in the first proviso, after section 35 B. clause (c), the following clause shall be inserted, namely:—

"(d) credit of any duty allowed to be utilised towards payment of excise duty on final products under the provisions of this Act or the rules made thereunder and such order is passed by the Commissioner (Appeals) on or after the date appointed under section 109 of the Finance (No. 2) Act, 1993;"

110. In the Central Excise Act, after section 30, the following Chapter shall be inserted, namely:— Insertion of new Chapter V.

CHAPTER V

SETTLEMENT OF CASES

31. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) "assessee" means any person who is liable for payment of excise duty assessed under this Act or any other Act and includes any producer or manufacturer of excisable goods or a registered person under the rules made under this Act, of a private warehouse in which excisable goods are stored;

(b) "Bench" means a Bench of the Settlement Commission;

(c) "case" means any proceeding under this Act or any other Act for the levy, assessment and collection of excise duty, or any proceeding by way of appeal or revision in connection with such levy, assessment or collection, which may be pending before a Central Excise Officer or Central Government on the date on which an application under sub-section (1) of section 32E is made:

Provided that where any appeal or application for revision has been preferred after the expiry of the period specified for the filing of such appeal or application for revision under this Act and which has not been admitted, such appeal or revision shall not be deemed to be a proceeding pending within the meaning of this clause;

(d) "Chairman" means the Chairman of the Settlement Commission;

(e) "Commissioner (Investigation)" means an officer of the customs or a Central Excise Officer appointed as such Commissioner to conduct inquiry or investigation for the purposes of this Chapter;

(f) "Member" means a Member of the Settlement Commission and includes the Chairman and the Vice-Chairman;

(g) "Settlement Commission" means the Customs and Central Excise Settlement Commission constituted under section 32; and

(h) "Vice-Chairman" means a Vice-Chairman of the Settlement Commission.

32. (1) The Central Government shall, by notification in the Official Gazette, constitute a Commission to be called the Customs and Central Excise Settlement Commission for the settlement of cases under this Chapter and Chapter XIVA of the Customs Act, 1962. Customs and Central Excise Settlement Commission.

(2) The Settlement Commission shall consist of a Chairman and as many Vice-Chairmen and other Members as the Central Government thinks fit and shall function within the Department of the Central Government dealing with customs and central excise matters.

(3) The Chairman, Vice-Chairman and other Members of the Settlement Commission shall be appointed by the Central Government from amongst persons of integrity and outstanding ability, having special knowledge of, and experience in, administration of customs and central excise laws:

Provided that, where a member of the Board is appointed as the Chairman, Vice-Chairman or as a Member of the Settlement Commission, he shall cease to be a member of the said Board.

32A. (1) Subject to the other provisions of this Chapter, the jurisdiction, powers and authority of the Settlement Commission may be exercised by Benches thereof. Jurisdiction and powers of Settlement Commission.

(2) Subject to the other provisions of this section, a Bench shall be presided over by the Chairman or a Vice-Chairman and shall consist of two other Members.

(3) The Bench for which the Chairman is the presiding officer shall be the principal Bench and other Benches shall be known as additional Benches.

(4) Notwithstanding anything contained in sub-section (1) and sub-section (2), the Chairman may authorise the Vice-Chairman or other Member appointed to one Bench to discharge also the functions of the Vice-Chairman or, as the case may be, other Member of another Bench.

(5) The principal Bench shall sit at Delhi and the Central Government shall, by notification in the Official Gazette, establish additional Benches at such places as it considers necessary.

(6) Notwithstanding anything contained in the foregoing provisions of this section, and subject to any rules that may be made in this behalf, when one of the persons constituting a Bench (whether such person be the presiding officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the presiding officer or in the office of one or the other members of the Bench, the remaining Members may function as the Bench and if the presiding officer of the Bench is not one of the remaining Members, the senior among the remaining Members shall act as the presiding officer of the Bench:

Provided that if at any stage of the hearing of any such case or matter, it appears to the presiding officer that the case or matter is of such a nature that it ought to be heard of by a Bench consisting of three Members, the case or matter may be referred by the presiding officer of such bench to the Chairman for transfer to such Bench as the Chairman may deem fit.

(7) Notwithstanding anything contained in the foregoing provisions of this section, the Chairman may, for the disposal of any particular case, constitute a special Bench consisting of more than three Members.

(8) Subject to the other provisions of this Chapter, the special Bench shall sit at a place to be fixed by the Chairman.

Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances.

32B. (1) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Chapter to fill such vacancy, enters upon his office.

(2) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.

Power of Chairman to transfer cases from one Bench to another.

32C. On the application of the assessee or the Chief Commissioner or Commissioner of Central Excise and after giving notice to them, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to another Bench.

Decision to be by majority.

32D. If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Settlement Commission and such point or points shall be decided according to the opinion of the majority of the Members of the Settlement Commission who have heard the case, including those who first heard it.

Application for settlement of cases.

32E. (1) An assessee may, at any stage of a case relating to him make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his duty liability which has not been disclosed before the Central Excise Officer having jurisdiction, the manner in which such liability has been derived, the additional amount of excise duty accepted to be payable by him and such other particulars as may be prescribed including the particulars of such excisable goods in respect of which he admits short levy on account of misclassification or otherwise of such excisable goods, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless,—

(a) the applicant has filed monthly returns showing production, clearance and central excise duty paid in the prescribed manner;

(b) a show cause notice for recovery of duty issued by the Central Excise Officer has been received by the applicant; and

(c) the additional amount of duty accepted by the applicant in his application exceeds two lakh rupees:

Provided further that no application shall be entertained by the Settlement Commission under this sub-section in cases which are pending with the Appellate Tribunal or any Court:

Provided also that no application under this sub-section shall be made for the interpretation of the classification of excisable goods under the Central Excise Tariff Act, 1985.

(2) Where any excisable goods, books of account, other documents have been seized under the provisions of this Act or rules made thereunder, the assessee shall not be entitled to make an application under sub-section (1), before the expiry of one hundred and eighty days from the date of the seizure.

(3) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed.

(4) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

32F. (1) On receipt of an application under sub-section (1) of section 32E, the Settlement Commission shall call for a report from the Commissioner of Central Excise having jurisdiction and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Commission may, by order, allow the application to be proceeded with or reject the application: Procedure on receipt of an application under section 32E.

Provided that an application shall not be rejected under this sub-section, unless an opportunity has been given to the applicant of being heard:

Provided further that the Commissioner of Central Excise shall furnish such report within a period of one month of the receipt of the communication from the Settlement Commission, failing which it shall be presumed that the Commissioner of Central Excise has no objection to such application; but he may raise objections at the time of hearing fixed by the Settlement Commission for admission of the application and the date of such hearing shall be communicated by the Settlement Commission to the applicant and the Commissioner of Central Excise within a period not exceeding two months from the date of receipt of such application, unless the presiding officer of the Bench extends the time, recording the reasons in writing.

(2) A copy of every order under sub-section (1) shall be sent to the applicant and to the Commissioner of Central Excise having jurisdiction.

(3) Subject to the provisions of sub-section (4), the applicant shall within thirty days of the receipt of a copy of the order under sub-section (1) allowing the application to be proceeded with, pay the amount of additional duty admitted by him as payable and shall furnish proof of such payment to the Settlement Commission.

(4) If the Settlement Commission is satisfied, on an application made in this behalf by the assessee that he is unable for good and sufficient reasons to pay the amount referred to in sub-section (3), within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments, if the assessee furnishes adequate security for the payment thereof.

(5) Where the additional amount of duty referred to in sub-section (3) is not paid by the assessee within the time specified or extended period, as the case may be, the Settlement Commission may direct that the amount which remains unpaid, together with simple interest at the rate of eighteen per cent. per annum or at the rate notified by the Central Board of Excise and Customs from time to time on the amount remaining unpaid, be recovered, as the sum due to Central Government by the Central Excise Officer having jurisdiction over the assessee in accordance with the provisions of section 11.

(6) Where an application is allowed to be proceeded with under sub-section (1), the Settlement Commission may call for the relevant records from the Commissioner of Central Excise having jurisdiction and after examination of such records, if the Settlement Commission is of the opinion that any further inquiry or investigation in the matter is necessary, it may direct the Commissioner (Investigation) to make or cause to be made such further inquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case.

(7) After examination of the records and the report of the Commissioner of Central Excise received under sub-section (1), and the report, if any, of the Commissioner (Investigation) of the Settlement Commission under sub-section (6), and after giving an opportunity to the applicant and to the Commissioner of Central Excise having jurisdiction to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner of Central Excise and Commissioner (Investigation) under sub-section (1) or sub-section (6).

(8) Subject to the provisions of section 32A, the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (7) and, in relation to the passing of such order, the provisions of section 32D shall apply.

(9) Every order passed under sub-section (7) shall provide for the terms of settlement including any demand by way of duty, penalty or interest, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud, or misrepresentation of facts.

(10) Where any duty payable in pursuance of an order under sub-section (7) is not paid by the assessee within thirty days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such duty or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at the rate of eighteen per cent. per annum or at such other rate as notified by the Central Board of Excise and Customs on the amount remaining unpaid from the date of expiry of the period of thirty days aforesaid.

(11) Where a settlement becomes void as provided under sub-section (9) the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the Central Excise Officer having jurisdiction may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the date of the receipt of communication that the settlement became void.

Power of
Settlement
Commission to
order provi-
sional
attachment to
protect
revenue.

32G. (1) Where, during the pendency of any proceeding before it, the Settlement Commission is of the opinion that, for the purpose of protecting the interests of revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner as may be prescribed.

(2) Every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect from the date, the sums due to the Central Government for which such attachment is made are discharged by the applicant and evidence to that effect is submitted to the Settlement Commission.

Power of
Settlement
Commission to
reopen
completed
proceedings.

32H. If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act before application for settlement under section 32E was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also:

Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of five years from the date of application.

Powers and
procedure of
Settlement
Commission.

32-I. (1) In addition to the powers conferred on the Settlement Commission under this Chapter, it shall have all the powers which are vested in a Central Excise Officer under this Act or the rules made thereunder.

(2) Where an application made under section 32E has been allowed to be proceeded with under section 32F, the Settlement Commission shall, until an order is passed under sub-section (7) of section 32F, have, subject to the provisions of sub-section (6) of that section, exclusive jurisdiction to exercise the powers and perform the functions of any Central Excise Officer, under this Act in relation to the case.

(3) In the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matters other than those before the Settlement Commission.

(4) The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers, or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

Inspection,
etc., of
reports.

32J. No person shall be entitled to inspect, or obtain copies of, any report made by any Central Excise Officer to the Settlement Commission; but the Settlement Commission may, in its discretion furnish copies thereof to any such person on an application made to it in this behalf and on payment of the prescribed fee:

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on record against him in any such report, the Settlement Commission shall, on an application made in this behalf, and on payment of the prescribed fee by such person, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

Power of
Settlement
Commission to
grant immunity
from prosecu-
tion and
penalty.

32K. (1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 32E has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his duty liability, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force and also either wholly or in part from the imposition of any penalty, fine and interest under this Act, with respect to the case covered by the settlement:

Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 32E.

(2) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under sub-section (7) of section 32F within the time specified in such order or within such further time as may be allowed by the Settlement Commission, or fails to comply with any other condition subject to which the immunity

was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(3) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particular material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

32L. (1) The Settlement Commission may, if it is of opinion that any person who made an application for settlement under section 32E has not co-operated with the Settlement Commission in the proceedings before it, send the case back to the Central Excise Officer having jurisdiction who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under section 32E had been made.

Power of Settlement Commission to send a case back to the Central Excise Officer.

(2) For the purpose of sub-section (1), the Central Excise Officer shall be entitled to use all the materials and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before such Central Excise Officer or held or recorded by him in the course of the proceedings before him.

(3) For the purposes of the time limit under section 11A and for the purposes of interest under section 11BB, in a case referred to in sub-section (1), the period commencing on and from the date of the application to the Settlement Commission under section 32E and ending with the date of receipt by the Central Excise Officer of the order of the Settlement Commission sending the case back to the Central Excise Officer shall be excluded.

32M. Every order of settlement passed under sub-section (7) of section 32F shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

Order of settlement to be conclusive.

32N. Any sum specified in an order of settlement passed under sub-section (7) of section 32F may, subject to such conditions if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered as sums due to the Central Government in accordance with the provisions under section 11 by the Central Excise Officer having jurisdiction over the person who made the application for settlement under section 32E.

Recovery of sums due under order of settlement.

32-O. Where—

(i) an order of settlement passed under sub-section (7) of section 32F provides for the imposition of a penalty on the person who made the application under section 32E for settlement, on the ground of concealment of particulars of his duty liability; or

Bar on subsequent application for settlement in certain cases.

(ii) after the passing of an order of settlement under the said sub-section (7) in relation to a case, such person is convicted of any offence under this Act in relation to that case; or

(iii) the case of such person is sent back to the Central Excise Officer having jurisdiction by the Settlement Commission under section 32L,

then, he shall not be entitled to apply for settlement under section 32E in relation to any other matter.

32P. Any proceedings under this Chapter before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code.

Proceedings before Settlement Commission to be judicial proceedings.

111. (1) In the case of goods specified in the Second Schedule, being goods manufactured in India, there shall be levied and collected as an additional duty of excise an amount calculated at the rate set forth in the said Schedule.

Additional duty of excise (motor spirit).

(2) The additional duty of excise referred to in sub-section (1) shall be in addition to any other duties of excise chargeable on such goods under the Central Excise Act, or any other law for the time being in force.

(3) The provisions of the Central Excise Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the additional duty of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules and regulations, as the case may be.

(4) The additional duty of excise leviable under sub-section (1) shall be for the purposes of the Union and the proceeds thereof shall not be distributed among the States.

112. The Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act) shall be amended in the manner specified in the Fourth Schedule.

Amendment of Act 5 of 1986.

Amendment of Act 58 of 1957. 113. The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act) shall be amended in the manner specified in the Fifth Schedule.

Amendment of Act 40 of 1978. 114. The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (hereinafter referred to as the Additional Duties of Excise (Textiles and Textile Articles) Act), shall be amended in the manner specified in the Sixth Schedule.

Amendment of Act 16 of 1955. 115. In the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, in the Schedule, in Item No. 4, for the entry in the third column, the entry "fifty per cent. *ad valorem*." shall be substituted.

CHAPTER VI

SERVICE TAX

Amendment of Act 32 of 1994. 116. In the Finance Act, 1994, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(1) for section 65, the following section shall be substituted, namely:—

Definitions.

65. In this Chapter, unless the context otherwise requires,—

(1) "advertisement" includes any notice, circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas;

(2) "advertising agency" means any commercial concern engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant;

(3) "air travel agent" means any person engaged in providing any service connected with the booking of passage for travel by air;

(4) "Appellate Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129 of the Customs Act, 1962;

52 of 1962.

(5) "architect" means any person whose name is, for the time being, entered in the register of architects maintained under section 23 of the Architects Act, 1972 and also includes any commercial concern engaged in any manner, whether directly or indirectly, in rendering services in the field of architecture;

20 of 1972.

(6) "assessee" means a person liable to pay the service tax and includes his agent;

(7) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;

54 of 1963.

(8) "body corporate" shall have the meaning assigned to it in or under clause (7) of section 2 of the Companies Act, 1956;

1 of 1956.

(9) "cab" means a motor cab or maxi cab;

(10) "caterer" means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion;

(11) "Central Excise Officer" has the meaning assigned to it in clause (b) of section 2 of the Central Excise Act, 1944.

1 of 1944.

(12) "clearing and forwarding agent" means any person who is engaged in providing any service, either directly or indirectly, connected with the clearing and forwarding operations in any manner to any other person and includes a consignment agent;

(13) "consulting engineer" means any professionally qualified engineer or an engineering firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to a client in one or more disciplines of engineering;

(14) "courier agency" means a commercial concern engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;

(15) "credit rating agency" means any commercial concern engaged in the business of credit rating of any debt obligation or of any project or programme requiring finance, whether in the form of debt or otherwise, and includes credit rating of any financial obligation, instrument or security, which has the purpose of providing a potential investor or any other person any information pertaining to the relative safety of timely payment of interest or principal;

- 52 of 1962. (16) "custom house agent" means a person licensed, temporarily or otherwise, under the regulations made under sub-section (2) of section 146 of the Customs Act, 1962;
- 57 of 1972. (17) "general insurance business" has the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972;
- 3 of 1930. (18) "goods" has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930;
- (19) "insurer" means any person carrying on the general insurance business in India;
- (20) "interior decorator" means any person engaged, whether directly or indirectly, in the business of providing by way of advice, consultancy, technical assistance or in any other manner, services related to planning, design or beautification of spaces, whether man-made or otherwise and includes a landscape designer;
- (21) "management consultant" means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organisation in any manner and includes any person who renders any advice, consultancy or technical assistance, relating to conceptualising, devising, development, modification, rectification or upgradation of any working system of any organisation;
- 4 of 1982. (22) "mandap" means any immovable property as defined in section 3 of the Transfer of Property Act, 1882 and includes any furniture, fixtures, light fittings and floor coverings therein let out for consideration for organising any official, social or business function;
- (23) "mandap keeper" means a person who allows temporary occupation of a mandap for consideration for organising any official, social or business function;
- (24) "manpower recruitment agency" means any commercial concern engaged in providing any service, directly or indirectly, in any manner for recruitment of manpower, to a client;
- (25) "market research agency" means any commercial concern engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customised and syndicated research services;
- 59 of 1988. (26) "maxi cab" has the meaning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988;
- (27) "mechanised slaughter house" means a commercial concern engaged in the business of slaughtering of animals with the aid of machines;
- 59 of 1988. (28) "motor cab" has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988;
- (29) "pager" means an instrument, apparatus or appliance which is a non-speech, one way personal calling system with alert and has the capability of receiving, storing and displaying numeric or alpha-numeric messages;
- 4 of 1938. (30) "policy holder" has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938;
- 38 of 1949. (31) "practising chartered accountant" means a person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the provisions of the Chartered Accountants Act, 1949 and includes any concern engaged in rendering services in the field of chartered accountancy;
- 23 of 1959. (32) "practising cost accountant" means a person who is a member of the Institute of Cost and Works Accountants of India and is holding a certificate of practice granted under the provisions of the Cost and Works Accountants Act, 1959 and includes any concern engaged in rendering services in the field of cost accountancy;
- 56 of 1980. (33) "practising company secretary" means a person who is a member of the Institute of Company Secretaries of India and is holding a certificate of practice granted under the provisions of the Company Secretaries Act, 1980 and includes any concern engaged in rendering services in the field of company secretaryship;
- (34) "prescribed" means prescribed by rules made under this Chapter;
- (35) "real estate agent" means a person who is engaged in rendering any service in relation to sale, purchase, leasing or renting, of real estate and includes a real estate consultant;
- (36) "real estate consultant" means a person who renders in any manner, either directly or indirectly, advice, consultancy or technical assistance, in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate;

(37) "recognised stock exchange" has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956.

42 of 1956.

(38) "rent-a-cab scheme operator" means any person engaged in the business of renting of cabs;

(39) "securities" has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.

42 of 1956.

(40) "security agency" means any commercial concern engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel;

(41) "service tax" means tax leviable under the provisions of this Chapter;

(42) "ship" means a sea-going vessel and includes a sailing vessel;

(43) "shipping line" means any person who owns or charters a ship and includes an enterprise which operates or manages the business of shipping;

(44) "steamer agent" means any person who undertakes, either directly or indirectly,—

(a) to perform any service in connection with the ship's husbandry or dispatch including the rendering of administrative work related thereto; or

(b) to book, advertise or canvass for cargo for or on behalf of a shipping line; or

(c) to provide container feeder services for or on behalf of a shipping line;

(45) "stock-broker" means a stock-broker who has either made an application for registration or is registered as a stock-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(46) "sub-broker" means a sub-broker who has either made an application for registration or is registered as a sub-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(47) "subscriber" means a person to whom a telephone connection or a pager has been provided by the telegraph authority;

(48) "taxable service" means any service provided,—

(a) to an investor, by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange;

(b) to a subscriber, by the telegraph authority in relation to a telephone connection;

(c) to a subscriber, by the telegraph authority in relation to a pager;

(d) to a policy holder, by an insurer carrying on general insurance business in relation to general insurance business;

(e) to a client, by an advertising agency in relation to advertisements in any manner;

(f) to a customer, by a courier agency in relation to door-to-door transportation of time-sensitive documents, goods or articles;

(g) to a client, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering;

(h) to a client, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods;

(i) to a shipping line, by a steamer agent in relation to a ship's husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo, including container feeder services;

(j) to a client, by a clearing and forwarding agent in relation to clearing and forwarding operations in any manner;

(k) to a client, by a manpower recruitment agency in relation to the recruitment of manpower in any manner;

(l) to a customer, by an air travel agent in relation to the booking of passage for travel by air;

(m) to a client, by a mandap keeper in relation to the use of a mandap in any manner

including the facilities provided to the client in relation to such use and also the services, if any, rendered as a caterer;

(n) to any person, by a tour operator in relation to a tour;

(o) to any person, by a rent-a-cab scheme operator in relation to the renting of a cab;

(p) to a client, by an architect in his professional capacity in any manner;

(q) to a client, by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or otherwise, in any manner;

(r) to a client, by a management consultant in connection with the management of any organisation in any manner;

(s) to a client, by a practising chartered accountant in his professional capacity, in any manner;

(t) to a client, by a practising cost accountant in his professional capacity, in any manner;

(u) to a client, by a practising company secretary in his professional capacity, in any manner;

(v) to a client, by a real estate agent in relation to real estate;

(w) to a client, by a security agency in relation to the security of any property or person, by providing security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity;

(x) to a client, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security;

(y) to a client, by a market research agency in relation to market research of any product, service or utility, in any manner;

(z) to a client, by an underwriter in relation to underwriting in any manner;

(za) to any person, by a mechanised slaughter house in relation to the slaughtering of bovine animals;

13 of 1985.

(49) "telegraph authority" has the meaning assigned to it in clause (6) of section 3 of the Indian Telegraph Act, 1885 and includes a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of that Act;

(50) "tour" means a journey from one place to another irrespective of the distance between such places;

59 of 1988.

(51) "tourist vehicle" has the meaning assigned to it in clause (43) of section 2 of the Motor Vehicles Act, 1988;

59 of 1988.

(52) "tour operator" means any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act 1988 or the rules made thereunder;

(53) "underwriter" has the meaning assigned to it in clause (f) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

(54) "underwriting" has the meaning assigned to it in clause (g) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

1 of 1944.

(55) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 or the rules made thereunder, shall apply, so far as may be, in relation to service tax as they apply in relation to duty of excise;

(2) for section 66, the following section shall be substituted, namely:—

"66. (1) On and from the date of commencement of this Chapter, there shall be levied a tax Charge of (hereinafter referred to as the service tax), at the rate of five per cent. of the value of the taxable service tax. services referred to in sub-clauses (a), (b) and (d) of clause (48) of section 65 and collected in such manner as may be prescribed.

33 of 1996.

(2) With effect from the date notified under section 85 of the Finance (No. 2) Act, 1996, there shall be levied a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (c), (e) and (f) of clause (48) of section 65 and collected in such manner as may be prescribed.

26 of 1997.

(3) With effect from the date notified under section 88 of the Finance Act, 1997, there shall be

levied a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (g), (h), (i), (j), (k), (l), (m), (n) and (o) of clause (48) of section 65 and collected in such manner as may be prescribed.

(4) With effect from the date notified under section 116 of the Finance (No. 2) Act, 1998, there shall be levied a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (p), (q), (r), (s), (t), (u), (v), (w), (x), (y) and (z) of clause (48) of section 65 and collected in such manner as may be prescribed.

(5) With effect from the date notified under section 116 of the Finance (No. 2) Act, 1998, there shall be levied a service tax at the rate of one thousand rupees per animal on the taxable service referred to in sub-clause (za) of clause (48) of section 65 and collected in such manner as may be prescribed.*;

(3) in section 67,—

(i) in clause (b), for the word "received", the word "charged" shall be substituted;

(ii) in clause (c), for the word "received", the word "charged" shall be substituted;

(iii) clauses (l), (m) and (n) shall be omitted;

(iv) clauses (o), (p) and (q) shall respectively be relettered as clauses (l), (m) and (n) respectively;

(v) after clause (n) as so relettered, the following clauses shall be inserted, namely:—

"(o) in relation to the service provided by an architect to a client, shall be the gross amount charged by such architect from the client for services rendered in professional capacity in any manner;

(p) in relation to the service provided by an interior decorator to a client, shall be the gross amount charged by such decorator from the client for services rendered in relation to planning, design or beautification of spaces in any manner;

(q) in relation to the service provided by a management consultant to a client, shall be the gross amount charged by such consultant from the client for services rendered in connection with the management of any organization in any manner;

(r) in relation to the service provided by a practising chartered accountant to a client, shall be the gross amount charged by such accountant from the client for services rendered in professional capacity in any manner;

(s) in relation to the service provided by a practising cost accountant to a client, shall be the gross amount charged by such accountant from the client for services rendered in professional capacity in any manner;

(t) in relation to the service provided by a practising company secretary to a client, shall be the gross amount charged by such secretary from the client for services rendered in professional capacity in any manner;

(u) in relation to the service provided by a real estate agent to a client, shall be the gross amount charged by such agent from the client for services rendered in connection with the sale, purchase, leasing or renting of real estate including any advice, consultancy or technical assistance relating to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate;

(v) in relation to the service provided by a security agency to a client, shall be the gross amount charged by such agency from the client for services rendered in connection with the security of any property or person, and includes services of investigation, detection or verification of any fact or activity including services of providing security personnel;

(w) in relation to the service provided by a credit rating agency to a client, shall be the gross amount charged by such agency from the client for services rendered in connection with credit rating of any financial obligation, instrument or security in any manner;

(x) in relation to the service provided by a market research agency to a client, shall be the gross amount charged by such agency from the client for services rendered in connection with market research of any product, service or utility in any manner;

(y) in relation to the service provided by an underwriter to a client, shall be the gross

amount charged by such underwriter from the client for services rendered in relation to underwriting in any manner.”;

(4) for sections 68 to 71, the following sections shall be substituted, namely:—

“68. (1) Every person providing taxable service to any person shall pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed.

Payment of
service tax.

(2) Notwithstanding anything contained in sub-section (1), in respect of any taxable service notified by the Central Government in the Official Gazette, the service tax thereon shall be paid by such person and in such manner as may be prescribed at the rate specified in section 66 and all the provisions of this Chapter shall apply to such person as if he is the person liable for paying the service tax in relation to such service.

69. Every person liable to pay the service tax under this Chapter or the rules made thereunder shall, within such time and in such manner and in such form as may be prescribed, make an application for registration to the Central Excise Officer.

Registration.

70. Every person liable to pay the service tax shall furnish or cause to be furnished to the Central Excise Officer, a return in such form and in such manner and at such frequency as may be prescribed.

Furnishing of
returns.

71. (1) For the purpose of making an assessment under this Chapter, the Central Excise Officer may serve on any person who has furnished a return under section 70, a notice requiring him to produce within such period as may be specified therein, such accounts, documents or other evidence as he may deem necessary for such assessment.

Assessment.

(2) The Central Excise Officer, after considering such accounts, documents or other evidence, if any, obtained under sub-section (1) and after taking into account any relevant material which he has gathered, shall, by an order in writing, assess the value of the taxable service and the amount of service tax payable on the basis of such assessment.”;

(5) in section 72, for clause (a), the following clause shall be substituted, namely:—

“(a) any person fails to make the return under section 70, or”;

(6) in section 73,—

(a) for the word “quarter”, wherever it occurs, the words “prescribed period” shall be substituted;

(b) for the words, brackets and figures “serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 70 and may proceed to assess or reassess the value of the taxable service, and the provisions of this Chapter shall, so far as may be, apply, as if the notice were a notice issued under that sub-section”, the words “serve on the assessee a notice and proceed to assess or reassess the value of the taxable service” shall be substituted;

(7) for sections 75 to 77, the following sections shall be substituted, namely:—

“75. Every person, liable to pay the tax in accordance with the provisions of section 68 or rules made thereunder, who fails to credit the tax or any part thereof to the account of the Central Government within the period prescribed, shall pay simple interest at the rate of one and one-half per cent. for every month or part of the month by which such crediting of the tax or any part thereof is delayed.

Interest on
delayed
payment of
service tax.

76. Any person, liable to pay service tax in accordance with the provisions of section 68 or the rules made thereunder, who fails to pay such tax shall pay in addition to paying such tax, and interest on that tax in accordance with the provisions of section 75, a penalty which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which such failure continues, so, however, that the penalty under this clause shall not exceed the amount of service tax that he failed to pay.

Penalty for
failure to pay
service tax.

77. If a person fails to furnish in due time the return which he is required to furnish under section 70 or the rules made thereunder, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every week or part thereof during which such failure continues.”;

Penalty for
failure to
furnish
prescribed
return.

(8) in section 82, for the words “If the Central Excise Officer has reason to believe”, the words “If the Commissioner of Central Excise has reason to believe” shall be substituted;

(9) in section 83, after the figures and letter “11B”, the figures and letters “11BB, 12A” shall be inserted;

(10) sections 87 to 92 shall be omitted;

(11) for section 93, the following section shall be substituted, namely:—

Power to
grant
exemption
from service
tax.

"93. (1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally or subject to such conditions as may be specified in the notification, taxable service of any specified description from the whole or any part of the service tax leviable thereon.

(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt any taxable service of any specified description from the payment of whole or any part of the service tax leviable thereon, under circumstances of exceptional nature to be stated in such order."

(12) in section 94, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) collection and recovery of service tax under sections 66 and 68;
- (b) the time and manner and the form in which application for registration shall be made under section 69;
- (c) the form, manner and frequency of the returns to be furnished under section 70;
- (d) the form in which appeal under section 85 or under sub-section (6) of section 86 may be filed and the manner in which they may be verified;
- (e) the manner in which the memorandum of cross objections under sub-section (4) of section 86 may be verified;
- (f) any other matter which by this Chapter is to be or may be prescribed."

CHAPTER VII

MISCELLANEOUS

Omission of
section 37 of
Act 28 of
1981.

117. In the Export-Import Bank of India Act, 1981, section 37 shall be omitted with effect from the 1st day of April, 1999.

Amendment
of Act 6 of
1898.

118. In the Indian Post Office Act, 1898, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the First Schedule, the following Schedule shall be substituted, namely:—

"THE FIRST SCHEDULE

(See section 7)

INLAND POSTAGE RATES

Letters

For a weight not exceeding twenty grams	Rs. 3.00
For every twenty grams, or fraction thereof, exceeding twenty grams	Rs. 3.00.

Letter-cards

For a letter-card	Rs. 1.50.
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Post cards (not being post cards containing printed communication or competition post cards)

Single	25 paise
Reply	50 paise.

[Post cards containing printed communication (not being competition post cards)]

For a post card	Rs. 1.50.
-----------------	-----------

Explanation.—A post card shall be deemed to contain a printed communication, if any matter (except the name and address of, and other particulars relating to, the sender and the place and date of despatch) is recorded by printing or by cyclostyling or by any other mechanical process, not being typewriting, on any part of the post card except the right hand half of the address-side thereof.

Competition post cards

For a post card	Rs. 3.00.
-----------------	-----------

Explanation.—A post card shall be deemed to be a competition post card if it is used in response to any competition organised on or through television, radio, newspaper, magazine or any other media.

Book pattern and sample packets

For the first fifty grams or fraction thereof	Rs. 1.00
For every additional fifty grams, or fraction thereof, in excess of fifty grams	Rs. 2.00.

Registered newspapers

For a weight not exceeding fifty grams	15 paise
For a weight exceeding fifty grams but not exceeding one hundred grams	25 paise
For every additional one hundred grams, or fraction thereof, exceeding one hundred grams	10 paise.
In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—	
For a weight not exceeding one hundred grams	25 paise.
For every additional one hundred grams, or fraction thereof, exceeding one hundred grams	10 paise:
Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the Post Office.	

Parcels

For a weight not exceeding five hundred grams	Rs. 10.00
For every five hundred grams, or fraction thereof, exceeding five hundred grams	Rs. 10.00.

1 of 1998.

119. The Finance Act, 1998 is hereby repealed and shall be deemed never to have been Repeal. enacted.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vi) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of Income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 40,000 | Nil; |
| (2) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 | 10 per cent. of the amount by which the total income exceeds Rs. 40,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 2,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 20,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000. |

Paragraph B

In the case of every co-operative society,—

Rates of Income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of Income-tax

On the whole of the total income

35 per cent.

Paragraph D

In the case of every local authority,—

Rate of Income-tax

On the whole of the total income

30 per cent.

Paragraph E

In the case of a company,—

Rates of Income-tax

I. In the case of a domestic company

35 per cent. of the total income;

II. In the case of a company other than a domestic company,—

(i) on so much of the total income as consists of—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian

concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government	50 per cent.
(//) on the balance, if any, of the total income	48 per cent.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	Rate of income-tax
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities other than a security of the Central or State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and any rules made thereunder	
(vi) on any other income	20 per cent.;
(b) where the person is not resident in India—	
(i) In the case of a non-resident Indian—	
(A) on any investment income	20 per cent.;
(B) on income by way of long-term capital gains referred to in section 115E	10 per cent.;
(C) on other income by way of long-term capital gains	20 per cent.;
(D) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(E) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(F) on income by way of winnings from horse races	40 per cent.;
(G) on the whole of other income	30 per cent.;
(ii) In the case of any other person—	
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(B) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(C) on income by way of winnings from horse races	40 per cent.;
(D) on income by way of long-term capital gains	20 per cent.;
(E) on the whole of the other income	30 per cent.;
2. In the case of a company—	
(a) where the company is a domestic company—	
(i) on income by way of interest other than "Interest on Securities"	20 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;

(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on any other income	20 per cent.;
(b) where the company is not a domestic company—	
(i) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(ii) on income by way of winnings from horse races	40 per cent.;
(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—	
(A) where the agreement is made before the 1st day of June, 1997	30 per cent.;
(B) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;
(v) on income by way of royalty (not being royalty of the nature referred to in sub-item (b)(iv)) payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;
(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 29th day of February, 1984 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;
(vii) on income by way of long-term capital gains	20 per cent.;
(viii) on any other income	48 per cent.

Explanation.—For the purpose of item 1(b)(i) of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

PART III

RATES FOR CALCULATING OR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" (not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section) shall be calculated, charged, deducted or computed at the following rate or rates:—

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vi) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 50,000 | Nil; |
| (2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000 | 10 per cent. of the amount by which the total income exceeds Rs. 50,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 19,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

- | | |
|----------------------------------|--------------|
| On the whole of the total income | 35 per cent. |
|----------------------------------|--------------|

Paragraph D

In the case of every local authority,—

Rate of income-tax

- | | |
|----------------------------------|--------------|
| On the whole of the total income | 30 per cent. |
|----------------------------------|--------------|

Paragraph E

In the case of a company,—

Rates of income-tax

- | | |
|--------------------------------------|-----------------------------------|
| I. In the case of a domestic company | 35 per cent. of the total income; |
|--------------------------------------|-----------------------------------|

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

48 per cent.

PART IV

[See section 2(10)(c)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1998, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1998.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998, is a loss, then, for the purposes of sub-section (9) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1999.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1990 (12 of 1990), or of the First Schedule to the Finance (No. 2) Act, 1991 (49 of 1991), or of the First Schedule to the Finance Act, 1992 (18 of 1992), or of the First Schedule to the Finance Act, 1993 (38 of 1993), or of the First Schedule to the Finance Act, 1994 (32 of 1994), or of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance (No. 2) Act, 1996 (33 of 1996) or of the First Schedule to the Finance Act, 1997 (26 of 1997), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be nil.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

[See sections 103(1) and 111(1)]

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
1	Motor spirit commonly known as petrol	Rupee one per litre

THE THIRD SCHEDULE

[See section 104 (b)]

In the First Schedule to the Customs Tariff Act,—

- (1) In Chapter 8, in sub-heading No. 0806.20, for the entries in column (4) and column (5), the entries "120%" and "110%" shall respectively be substituted;
- (2) In Chapter 13, in sub-heading Nos. 1302.19 and 1302.20, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;
- (3) In Chapter 21, in sub-heading No. 2106.90, for the entry in column (4), the entry "185%" shall be substituted;
- (4) In Chapter 22, in sub-heading Nos. 2207.10, 2208.20, 2208.30, 2208.40, 2208.50, 2208.60, 2208.70 and 2208.90, for the entry in column (4) occurring against each of them, the entry "245%" shall be substituted;
- (5) In Chapter 27, in sub-heading No. 2709.00, for the entry in column (4), the entry "20%" shall be substituted;
- (6) In Chapter 29,—
 - (i) In sub-heading No. 2905.11, for the entry in column (4), the entry "30%" shall be substituted;
 - (ii) In sub-heading No. 2918.14, for the entry in column (4), the entry "40%" shall be substituted;
 - (iii) In sub-heading No. 2933.71, for the entries in column (4) and column (5), the entries "25%" and "15%" shall respectively be substituted;
- (7) In Chapter 33, in sub-heading No. 3302.10, for the entry in column (4), the entry "185%" shall be substituted;
- (8) In Chapter 37, in sub-heading Nos. 3707.10 and 3707.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;
- (9) In Chapter 38, in sub-heading No. 3818.00, for the entry in column (4), the entry "20%" shall be substituted;
- (10) In Chapter 44,—
 - (i) In sub-heading Nos. 4404.10, 4404.20, 4405.00, 4406.10, 4406.90, 4407.10, 4407.24, 4407.25, 4407.26, 4407.29, 4407.81, 4407.92 and 4407.99, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
 - (ii) In sub-heading Nos. 4410.11, 4410.19, 4410.90, 4411.11, 4411.19, 4411.21, 4411.29, 4411.31, 4411.39, 4411.81 and 4411.99, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;
- (11) In Chapter 48, in sub-heading Nos. 4802.10, 4802.20, 4802.30, 4802.40, 4802.51, 4802.52, 4802.53, 4802.60, 4803.00, 4804.11, 4804.19, 4804.21, 4804.29, 4804.31, 4804.39, 4804.41, 4804.42, 4804.49, 4804.51, 4804.52, 4804.59, 4805.10, 4805.21, 4805.22, 4805.23, 4805.29, 4805.30, 4805.40, 4805.50, 4805.60, 4805.70, 4805.80, 4806.10, 4806.20, 4806.30, 4806.40, 4807.10, 4807.90, 4808.10, 4808.20, 4808.30, 4808.90, 4809.10, 4809.20, 4809.90, 4810.11, 4810.12, 4810.21, 4810.29, 4810.31, 4810.32, 4810.39, 4810.91, 4810.99, 4811.10, 4811.21, 4811.29, 4811.31, 4811.39, 4811.40, 4811.80 and 4823.20, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;
- (12) In Chapter 51, in sub-heading Nos. 5105.10, 5105.21, 5105.29, 5105.30 and 5105.40, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;
- (13) In Chapter 69, in sub-heading Nos. 6903.10, 6903.20 and 6903.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;
- (14) In Chapter 74, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7401.10, 7401.20, 7402.00, 7403.11, 7403.12, 7403.13, 7403.19, 7403.21, 7403.22, 7403.23, 7403.29 and 7404.00), the entry "35%" shall be substituted;
- (15) In Chapter 84,—
 - (i) In sub-heading Nos. 8407.31, 8407.32, 8407.33, 8407.34, 8408.20, 8409.91 and 8409.99, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;
 - (ii) In sub-heading No. 8471.70, for the entry in column (4), the entry "10%" shall be substituted;
 - (iii) In sub-heading No. 8483.20, for the entry in column (4), the entry "10% plus Rs. 150 per kg." shall be substituted;
- (16) In Chapter 85,—
 - (i) In sub-heading No. 8501.10, for the entry in column (4), the entry "20%" shall be substituted;
 - (ii) In sub-heading Nos. 8508.10, 8508.20, 8508.80 and 8508.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(iii) In sub-heading No. 8532.90, for the entry in column (4), the entry "30%" shall be substituted;

(iv) In sub-heading Nos. 8533.90 and 8541.90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(17) In Chapter 91, —

(i) In sub-heading Nos. 9108.11, 9108.12, 9108.19, 9108.20, 9108.91 and 9108.99, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(ii) In sub-heading Nos. 9110.11, 9110.12, 9110.19 and 9110.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

THE FOURTH SCHEDULE

(See section 112)

PART I

In the Schedule to the Central Excise Tariff Act,—

(1) In Chapter 4,—

(i) for NOTE 4, the following NOTES shall be substituted, namely:—

4. Heading No. 04.04 applies, *inter alia*, to butter-milk, curdled milk, cream, yogurt, whey, curd, and products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter or flavoured or containing added fruit or cocoa and includes fats and oils derived from milk (e.g. milkfat, butterfat and butteroil), dehydrated butter and ghee.

5. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture"

6. In this Chapter, "brand name" means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.

(ii) In sub-heading No. 0401.13, for the entry in column (4), the entry "8%" shall be substituted;

(2) In Chapter 9, after NOTE 2, the following NOTES shall be inserted, namely:—

3. Heading No. 09.03 covers spices, a group of vegetable products (including seeds, etc.), rich in essential oils and aromatic principles, and which, because of their taste, are mainly used as condiments. These products may be whole or in crushed or powdered form. The addition of other substances to spices shall not affect their inclusion in this heading provided the resulting mixtures retain the essential character of spices included in this heading. The heading also includes products commonly known as "masalas".

4. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".

5. In this Chapter, "brand name" means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.

(3) In Chapter 11, in sub-heading No. 1102.00, for the entry in column (4), the entry "13%" shall be substituted;

(4) In Chapter 16, the following NOTES shall be inserted, namely:—

1. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".

2. In this Chapter, "brand name" means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.

(5) In Chapter 17, in sub-heading No. 1704.10, for the entry in column (3), the entry "- Gums, whether or not sugar coated (including chewing gum, bubblegum, and the like)" shall be substituted;

(6) In Chapter 21,—

(i) after NOTE 9, the following NOTE shall be inserted, namely:—

10. Sub-heading Nos. 2108.91 and 2108.99 include sweet meats commonly known as "mishans" or "mithai" or by any other name. They also include products commonly known as "namkeens", "mixtures", "bhujia", "chabena" or by any other name. Such products remain classified in these sub-headings irrespective of the nature of their ingredients.

(ii) In sub-heading No. 2101.30, for the entry in column (4), the entry "8%" shall be substituted;

(7) In Chapter 24,—

(i) In sub-heading No. 2403.11, for the entry in column (4), the entry "Rs. 68 per thousand" shall be substituted;

(ii) In sub-heading No. 2403.12, for the entry in column (4), the entry "Rs. 252 per thousand" shall be substituted;

(iii) In sub-heading No. 2403.13, for the entry in column (4), the entry "Rs. 374 per thousand" shall be substituted;

- (iv) in sub-heading No. 2403.14, for the entry in column (4), the entry "Rs. 612 per thousand" shall be substituted;
- (v) in sub-heading No. 2403.15, for the entry in column (4), the entry "Rs. 816 per thousand" shall be substituted;
- (8) in Chapter 25, in sub-heading Nos. 2504.21 and 2504.31, for the entry in column (4) occurring against each of them, the entry "Rs. 40 per square metre" shall be substituted;
- (9) in Chapter 27, in sub-heading Nos. 2710.11, 2710.12, 2710.13 and 2710.19, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (10) in Chapter 30, in sub-heading No. 3003.20, for the entry in column (4), the entry "8%" shall be substituted;
- (11) in Chapter 32, in sub-heading No. 3215.10, for the entry in column (4), the entry "18%" shall be substituted;
- (12) in Chapter 38, in sub-heading No. 3824.20, for the entry in column (4), the entry "Nil" shall be substituted;
- (13) in Chapter 39, in sub-heading Nos. 3903.20, 3903.30, 3905.10, 3905.20, 3905.90, 3906.10, 3906.20, 3906.90, 3907.10, 3907.20, 3907.30, 3907.40, 3907.50, 3907.60, 3907.70, 3907.80, 3907.91, 3907.99, 3908.10, 3908.90, 3909.10, 3909.20, 3909.30, 3909.40, 3909.51, 3909.52, 3909.59, 3909.60, 3910.00, 3911.10, 3911.20, 3911.90, 3912.11, 3912.12, 3912.20, 3912.31, 3912.39, 3912.90, 3913.10, 3913.20, 3913.30, 3913.90 and 3914.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;
- (14) in Chapter 40, in sub-heading No. 4012.90, for the entry in column (4), the entry "30%" shall be substituted;
- (15) in Chapter 48,—
 - (i) for NOTE 3, the following NOTE shall be substituted, namely:—

3. For the purposes of this Chapter, "newsprint" means newsprint as defined by the Central Government by notification published in the Official Gazette;
 - (ii) in sub-heading No. 4819.19, for the entry in column (4), the entry "13%" shall be substituted;
- (16) in Chapter 51, in sub-heading No. 5106.11, for the entry in column (4), the entry "8%" shall be substituted;
- (17) in Chapter 54, in sub-heading Nos. 5402.10, 5402.31, 5402.41, 5402.51 and 5402.61, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
- (18) in Chapter 64,—
 - (i) in NOTE 2, after clause (b), the following clause shall be inserted, namely:—

(c) the expression "retail sale price" has the meaning assigned to it in section 4A of the Central Excise Act, 1944 (1 of 1944);
 - (ii) in sub-heading No. 6401.12, for the entry in column (3), the entry "— Of retail sale price not exceeding Rs. 125 per pair" shall be substituted;
- (19) in Chapter 69, after NOTE 2, the following NOTE shall be inserted, namely:—

3. In relation to products of heading Nos. 69.06, 69.07, 69.09, 69.10 and 69.11, the process of printing, decorating or ornamenting shall amount to "manufacture";
- (20) in Chapter 70, after NOTE 5, the following NOTE shall be inserted, namely:—

6. In relation to products of heading Nos. 70.06, 70.07, 70.08, 70.10, 70.13 and 70.15, the process of printing, decorating or ornamenting shall amount to "manufacture";
- (21) in Chapter 82, in sub-heading No. 8215.00, for the entry in column (4), the entry "8%" shall be substituted;
- (22) in Chapter 84, in sub-heading Nos. 8434.10 and 8434.90, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (23) in Chapter 85,—
 - (i) after NOTE 6, the following NOTE shall be inserted, namely:—

7. For the purposes of this Chapter, the expression "retail sale price" has the meaning assigned to it in section 4A of the Central Excise Act, 1944 (1 of 1944);
 - (ii) in sub-heading No. 8523.12, for the entry in column (4), the entry "13%" shall be substituted;
 - (iii) in sub-heading No. 8524.20, for the entry in column (3), the entry "— Software" shall be substituted;
 - (iv) in sub-heading No. 8524.32, for the entry in column (4), the entry "Nil" shall be substituted;
 - (v) in heading No. 85.24, sub-heading No. 8524.35 and the entries relating thereto shall be omitted;
 - (vi) in heading No. 85.27, sub-heading No. 8527.20 and the entries relating thereto shall be omitted;

(vii) in sub-heading No. 8539.10, for the entry in column (3), the entry "Vacuum and gas filled bulbs of retail sale price not exceeding Rs. 20 per bulb" shall be substituted;

(24) In Chapter 87,—

(i) in sub-heading No. 8701.10, for the entry in column (4), the entry "8%" shall be substituted;

(ii) in sub-heading No. 8702.10, for the entry in column (4), the entry "30%" shall be substituted;

(iii) in sub-heading No. 8706.11, for the entry in column (4), the entry "8%" shall be substituted;

(iv) in sub-heading No. 8706.21, for the entry in column (4), the entry "30%" shall be substituted;

(25) In Chapter 90,—

(i) in sub-heading Nos. 9001.10, 9003.11 and 9003.19, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(ii) in sub-heading No. 9004.10, for the entry in column (4), the entry "13%" shall be substituted;

(iii) in sub-heading Nos. 9018.00, 9019.00, 9020.00, 9021.90 and 9022.10, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(iv) in sub-heading No. 9032.80, for the entry in column (4), the entry "18%" shall be substituted;

(26) In Chapter 93, in sub-heading Nos. 9302.00, 9303.00, 9304.00, 9305.00, 9306.00 and 9307.00, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(27) in Chapter 94, in sub-heading No. 9402.10, for the entry in column (4), the entry "13%" shall be substituted;

(28) in Chapter 96, in sub-heading No. 9607.00, for the entry in column (4), the entry "8%" shall be substituted.

PART II

Heading No.	Sub-heading No.	Description of Goods	Rate of duty
(1)	(2)	(3)	(4)

In the Schedule to the Central Excise Tariff Act,—

(a) in Chapter 4,—

(i) in heading No. 04.02, for sub-heading No. 0402.10 and the entries relating thereto, the following shall be substituted, namely:—

0402.11	In or in relation to the manufacture of which any process is ordinarily carried on with the aid of power :	
0402.19	Put up in unit containers and bearing a brand name	8%
	Other	Nil

(ii) in heading No. 04.03, for sub-heading No. 0403.10 and the entries relating thereto, the following shall be substituted, namely:—

0403.11	In or in relation to the manufacture of which any process is ordinarily carried on with the aid of power :	
0403.19	Put up in unit containers and bearing a brand name	8%
	Other	Nil

(iii) for heading No. 04.04 and the entries relating thereto, the following shall be substituted, namely:—

0404.11	OTHER DAIRY PRODUCE; EDIBLE PRODUCTS OF ANIMAL ORIGIN, NOT ELSEWHERE SPECIFIED OR INCLUDED	
0404.19	Ghee :	
0404.90	Put up in unit containers and bearing a brand name	8%
	Other	Nil
	Other	Nil

(b) In Chapter 9,—

(i) for heading No. 09.02 and the entries relating thereto, the following shall be substituted, namely:—

"09.02"	0902.10	- TEA, INCLUDING TEA BAGS AND TEA WASTE	8%
	0902.90	- Put up in unit containers and bearing a brand name	Nil";
		- Other	

(ii) for heading No. 09.03 and the entries relating thereto, the following shall be substituted, namely:—

"09.03"	0903.10	- SPICES	8%
	0903.90	- Put up in unit containers and bearing a brand name	Nil";
		- Other	

(c) In Chapter 16, for heading No. 16.01 and the entries relating thereto, the following shall be substituted, namely:—

"16.01"	1601.10	- PREPARATIONS OF MEAT, OF FISH OR OF CRUSTACEANS, MOLLUSCS OR OTHER AQUATIC INVERTEBRATES, INCLUDING SAUSAGES AND SIMILAR PRODUCTS, EXTRACTS AND JUICES, PREPARED OR PRESERVED FISH AND CAVIAR AND CAVIAR SUBSTITUTES	8%
	1601.90	- Put up in unit containers and bearing a brand name	Nil";
		- Other	

(d) In Chapter 19, for heading No. 19.05 and the entries relating thereto, the following shall be substituted, namely:—

"19.05"	1905.11	- BREAD, PASTRY, CAKES, BISCUITS AND OTHER BAKERS' WARES, WHETHER OR NOT CONTAINING COCOA, COMMUNION WAFERS, EMPTY CACHETS OF A KIND SUITABLE FOR PHARMACEUTICAL USE, SEALING WAFERS, RICE PAPER AND SIMILAR PRODUCTS	8%
	1905.19	- Biscuits :	Nil
	1905.20	- In or in relation to the manufacture of which any process is ordinarily carried on with the aid of power	8%
	1905.31	- Other	5%
	1905.39	- Cakes and pastry	18%
	1905.90	- Waffles and wafers:	8%
		- coated with chocolate or containing chocolate	Nil";
		- Other	

(e) In Chapter 84,—

(i) for heading No. 84.52 and the entries relating thereto, the following shall be substituted, namely:—

"84.52"	8452.11	- SEWING MACHINES, OTHER THAN BOOK-SEWING MACHINES OF HEADING NO. 84.40; FURNITURE, BASES AND COVERS SPECIALLY DESIGNED FOR SEWING MACHINES; SEWING MACHINE NEEDLES	Nil
	8452.19	- Sewing machines	8%
	8452.20	- Hand operated	Nil
	8452.30	- Other	Nil
	8452.90	- Sewing machine needles	Nil
		- Furniture bases and covers for sewing machines and parts thereof	Nil";
		- Other parts of sewing machines	

(f) In Chapter 85,—

(i) In heading No. 85.24, for sub-heading No. 8524.34 and the entries relating thereto, the following shall be substituted, namely:—

"8524.34"	- Video cassettes	18%";
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(ii) for heading No. 85.28, sub-heading Nos. 8528.10 and 8528.90 and the entries relating thereto, the following heading, sub-headings and the entries shall be substituted, namely:—

"85.28"	- TELEVISION RECEIVERS (INCLUDING VIDEO MONITORS AND VIDEO PROJECTORS), WHETHER OR NOT INCORPORATING RADIO BROADCAST RECEIVERS OR SOUND OR VIDEO RECORDING OR REPRODUCING APPARATUS	
---------	---	--

8528.10	- Colour television receivers, where—	18%
	(a) the retail sale price is declared on the package at the time of clearance from the factory of production; and	
	(b) the retail sale price declared is the sole consideration for the sale to the ultimate consumer	
8528.21	- Colour television receivers, other;	Rs. 2000 per set
8528.22	-- Of screen size upto 36 cm	Rs. 3000 per set
8528.23	-- Of screen size exceeding 36 cm but not exceeding 54 cm	Rs. 4000 per set
8528.24	-- Of screen size exceeding 54 cm but not exceeding 68 cm	Rs. 6000 per set
8528.90	- Other	18%.

THE FIFTH SCHEDULE

(See section 113)

In the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act,—

- (a) In sub-heading No. 2403.11, for the entry in column (4), the entry "Rs 32 per thousand" shall be substituted;
- (b) In sub-heading No. 2403.12, for the entry in column (4), the entry "Rs 118 per thousand" shall be substituted;
- (c) In sub-heading No. 2403.13, for the entry in column (4), the entry "Rs 176 per thousand" shall be substituted;
- (d) In sub-heading No. 2403.14, for the entry in column (4), the entry "Rs 288 per thousand" shall be substituted;
- (e) In sub-heading No. 2403.15, for the entry in column (4), the entry "Rs 384 per thousand" shall be substituted;
- (f) In sub-heading No. 2403.19, for the entry in column (4), the entry "Rs 470 per thousand" shall be substituted;
- (g) In sub-heading Nos. 5902.10, 5902.20 and 5902.90, for the entry in column (4) occurring against each of them, the entry "Rs. 10 per kg" shall be substituted.

THE SIXTH SCHEDULE

(See section 114)

In the Schedule to the Additional Duties of Excise (Textiles and Textile Articles) Act, against S. No. 2, for the entry in column (2), the following shall be substituted, namely:—

"Wool, that is to say, all goods falling within Chapter 51, other than fabrics of heading Nos. 51.10, 51.11 and 51.12".

Sd/—

RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20th April, 1999.

No. RP/23/99/Act-1/99/E.—The following Act of Parliament is republished for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 2nd January, 1999/Pausa 12, 1920 (Saka).

The following Act of Parliament received the assent of the President on the 2nd January, 1999 and is hereby published for general information :

THE EXPORT-IMPORT BANK OF INDIA (AMENDMENT) ACT, 1998

(Act No. 1 of 1999)

(2nd January, 1999)

AN ACT

further to amend the Export-Import Bank of India Act, 1981.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Export-Import Bank of India (Amendment) Act, 1998.

Short title
and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 4
of Act 28 of
1981.

2. In section 4 of the Export-Import Bank of India Act, 1981 for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) The authorised capital of the Exim Bank shall be one thousand crores of rupees :

Provided that the Central Government may, by notification, increase the said capital up to two thousand crores of rupees."

Sd/—

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

Extra No. 25



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20th April, 1999.

No. RP/24/99/Act-2/99/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 2nd January, 1999/Pausa 12, 1920 (Saka).

The following Act of Parliament received the assent of the President on the 2nd January, 1999 and is hereby published for general information :

THE COTTON GINNING AND PRESSING FACTORIES (REPEAL)
ACT, 1998

(Act No. 2 of 1999)

AN ACT

(2nd January, 1999)

to repeal the Cotton Ginning and Pressing Factories Act, 1925.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Cotton Ginning and Pressing Factories Short title. (Repeal) Act, 1998.

Repeal of Act
12 of 1925.

2. The Cotton Ginning and Pressing Factories Act, 1925, is hereby
repealed.

Sd/—
DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20th April, 1999.

No. RP/25/99/Act-3/99/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 2nd January, 1999/Pausa 12, 1920 (Saka).

The following Act of Parliament received the assent of the President on the 2nd January, 1999 and is hereby published for general information :

THE HIGH DENOMINATION BANK NOTES (DEMONETISATION)
AMENDMENT ACT, 1998

(Act No. 3 of 1999)

AN ACT

(2nd January, 1999)

to amend the High Denomination Bank Notes (Demonetisation) Act, 1978.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called The High Denomination Bank Notes ~~Short title.~~
(Demonetisation) Amendment Act, 1998.

Amendment
of section 2 of
Act 11 of 1978.

2. In section 2 of the High Denomination Bank Notes (Demonetisation) Act, 1978, in clause (d), for the words "issued by the Reserve Bank", the words "issued by the Reserve Bank immediately before the commencement of this Act" shall be substituted.

Sd/—

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20th April, 1999.

No. RP/26/99/Act-4/99/E.—The following Act of Parliament is
re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 2nd January, 1999/Pausa 12, 1920 (Saka).

The following Act of Parliament received the assent of the President on the
2nd January, 1999 and is hereby published for general information :

THE RAILWAY CLAIMS TRIBUNAL (AMENDMENT) ACT, 1998.

(Act No. 4 of 1999)

(2nd January, 1999)

AN ACT

further to amend the Railway Claims Tribunal Act, 1987.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India
as follows :—

1. This Act may be called the Railway Claims Tribunal (Amendment) Act, Short title.
1998.

Insertion of
new section
30A.

Power to make
rules
retrospectively.

2. After section 30 of the Railway Claims Tribunal Act, 1987, the following section shall be inserted, namely :—

"30A. The power to make rules under clause (b) of sub-section (2) of section 30 shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act received the assent of the President, but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable."

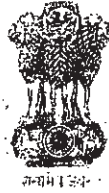
Sd/—

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

Extra No. 28



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20th April, 1999.

No. RP/21/99/Act-5/99/E.—The following Act of Parliament is
 re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 7th January, 1999/Pausa 17, 1920 (Saka).

The following Act of Parliament received the assent of the President on the
 7th January, 1999 and is hereby published for general information :

**THE LEADERS AND CHIEF WHIPS OF RECOGNISED PARTIES AND
 GROUPS IN PARLIAMENT (FACILITIES) ACT, 1998.**

(Act No. 5 of 1999)

(7th January, 1999)

AN ACT

*to provide for facilities to Leaders and Chief Whips of recognised parties and
 groups in Parliament.*

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India
 as follows :—

Short title and
commence-
ment.

1. (1) This Act may be called the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "recognised group" means,—

(i) in relation to the Council of States, every group of parties recognised for the purposes of this Act by the Chairman under the rules regulating the procedure of that House;

(ii) in relation to the House of the People, every group of parties recognised for the purposes of this Act by the Speaker under the rules regulating the procedure of that House;

(b) "recognised party" means,—

(i) in relation to the Council of States, every party which is recognised for the purposes of this Act by the Chairman under the rules regulating the procedure of that House;

(ii) in relation to the House of the People, every party which is recognised for the purposes of this Act by the Speaker under the rules regulating the procedure of that House.

Facilities to the
Leaders and
Chief Whips of
recognised
groups and par-
ties.

3. Subject to any rules made in this behalf by the Central Government, each leader (other than the Leader of the Opposition as defined in section 2 of the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977) and each Chief Whip of a recognised group and a recognised party shall be entitled to telephone and secretarial facilities.

Power to make
rules.

4. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Amendment
of section 3 of
Act 10 of 1959.

5. In the Parliament (Prevention of Disqualification) Act, 1959, in section 3,—

(i) after clause (ab), the following clause shall be inserted, namely:—

"(ac) the office of each leader of a recognised party and a recognised group in either House of Parliament;"

(ii) after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

Explanation 3.—In clause (ac), the expressions "recognised party" and "recognised group" shall have the meanings assigned to them in the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998.

Sd/—

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20th April, 1999.

No. RP/28/99/Act-7/99/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 8th January, 1999/Pausa 18, 1920 (Saka).

The following Act of Parliament received the assent of the President on the 8th January, 1999 and is hereby published for general information :

THE HIGH COURT AND SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) AMENDMENT ACT, 1998.

(Act No. 7 of 1999)

(8th January, 1999)

AN ACT

further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 1998.

(2) Sections 4, 6, 9 and 11 shall be deemed to have come into force on the 1st day of January, 1996 and the remaining provisions of this Act shall come into force at once.

CHAPTER II

AMENDMENT OF THE HIGH COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1954

2. In the High Court Judges (Salaries and Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act), in section 4, in sub-section (2), in clause (a), in sub-clause (iii), the words "so, however, that such period shall not exceed two hundred and forty days in terms of leave on full allowances" shall be omitted.

Short title and commencement.

Amendment of section 4.

28 of 1954.

Insertion of
new section 4A.

3. After section 4 of the High Court Judges Act, the following section shall be inserted, namely:—

Leave
encashment.

"4A. A Judge shall be entitled in his entire service, including the period of service rendered in a pensionable post under the Union or State or on re-employment, if any, to claim the cash equivalent of leave salary on his retirement in respect of the period of earned leave at his credit, to the extent of the maximum period prescribed for encashment of such leave under the All India Service (Leave) Rules, 1955."

Amendment of
section 17A.

4. In section 17A of the High Court Judges Act,—

(a) in sub-section (1),—

(i) for the words "fifty per cent.", the words "sixty per cent." shall be substituted;

(ii) for the words "three hundred and seventy-five rupees", the words "twelve hundred and seventy-five rupees" shall be substituted;

(b) in sub-section (3), in clause (ii),—

(i) for the words "twenty days", the words "ten days" shall be substituted;

(ii) for the words "each completed year", the words "each completed six months period" shall be substituted.

Amendment of
section 22A.

5. In section 22A of the High Court Judges Act, in sub-section (2), for the words "two thousand five hundred rupees", the words "ten thousand rupees" shall be substituted.

Amendment of
the First
Schedule.

6. In the First Schedule to the High Court Judges Act,—

(a) in Part I,—

(i) in paragraph 2,—

(A) in clause (a), for the letters and figures "Rs. 4,500", the letters and figures "Rs. 14,630" shall be substituted;

(B) in clause (b), for the letters and figures "Rs. 3,430", the letters and figures "Rs. 11,150" shall be substituted;

(C) in the proviso, for the letters and figures "Rs. 54,000" and "Rs. 48,000", the letters and figures "Rs. 1,80,000" and "Rs. 1,56,000" shall respectively be substituted;

(ii) in paragraph 8, for the letters and figures "Rs. 54,000", the letters and figures "Rs. 1,80,000" shall be substituted;

(iii) in paragraph 9, for the letters and figures "Rs. 15,750", the letters and figures "Rs. 51,190" shall be substituted;

(b) in Part II,—

(i) in the proviso to paragraph 2, for the letters and figures "Rs. 54,000" and "Rs. 48,000", the letters and figures "Rs. 1,80,000" and "Rs. 1,56,000" shall respectively be substituted;

(ii) in paragraph 3, for the figures "3,466", "4,160", "4,851", "5,545", "6,240" and "6,933", the figures "11,265", "13,520", "15,766", "18,022", "20,280" and "22,533" shall respectively be substituted;

(c) in Part III,—

(i) in paragraph 2,—

(A) in clause (b),—

(a) for the letters and figures "Rs. 1,600", the letters and figures "Rs. 5,200" shall be substituted;

(b) the portion beginning with the words "but in no case such additional or special pension" and ending with the words, letters and figures "shall exceed Rs. 8,000 per annum" shall be omitted;

(B) in the proviso, for the letters and figures "Rs. 54,000" and "Rs. 48,000", the letters and figures "Rs. 1,80,000" and "Rs. 1,56,000" shall respectively be substituted.

CHAPTER III

AMENDMENT OF THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1958

41 of 1958.

7. In the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 (hereinafter referred to as the Supreme Court Judges Act), in section 4, in sub-section (2), in clause (a), in sub-clause (iii), the words "so, however, that such period shall not exceed two hundred and forty days in terms of leave on full allowances" shall be omitted.

Amendment of section 4.

8. After section 4 of the Supreme Court Judges Act, the following section shall be inserted, namely:—

Insertion of new section 4A.

"4A. A Judge shall be entitled in his entire service, including the period of service rendered either as a Judge of a High Court or in a pensionable post under the Union or a State or on re-employment, if any, to claim the cash equivalent of leave salary on his retirement in respect of the period of earned leave at his credit, to the extent of the maximum period prescribed for encashment of such leave under the All India Service (Leave) Rules, 1955."

Leave encashment.

9. In section 16A of the Supreme Court Judges Act,—

Amendment of section 16A.

(a) in sub-section (1),—

(i) in clause (a), for the words "fifty per cent.", the words "sixty per cent." shall be substituted;

(ii) in clause (b), for the words "twenty-five per cent.", the words "thirty per cent." shall be substituted;

(b) in sub-section (2), in clause (ii),—

(i) for the words "twenty days", the words "ten days" shall be substituted;

(ii) for the words "each completed year", the words "each completed six months period" shall be substituted.

10. In section 23 of the Supreme Court Judges Act, in sub-section (1A), for the words "three thousand rupees", the words "ten thousand rupees" shall be substituted.

Amendment of section 23.

11. In the Schedule to the Supreme Court Judges Act,—

Amendment of the Schedule.

(a) in Part I,—

(i) in paragraph 2,—

(A) in clause (b), for the letters and figures "Rs. 1,235", "Rs. 37,500" and "Rs. 3,150", the letters and figures "Rs. 4,020", "Rs. 1,21,880" and "Rs. 10,240" shall respectively be substituted;

(B) in the proviso, for the letters and figures "Rs. 60,000", the letters and figures "Rs. 1,98,000" shall be substituted;

(ii) in the proviso to paragraph 3, for the letters and figures "Rs. 54,000", the letters and figures "Rs. 1,80,000" shall be substituted;

(iii) in paragraph 5, for the letters and figures "Rs. 19,700", the letters and figures "Rs. 64,030" shall be substituted;

(b) in Part II,—

(i) in paragraph 2,—

(A) in clause (b), for the letters and figures "Rs. 3,454", the letters and figures "Rs. 11,265" shall be substituted;

(B) in the proviso, for the letters and figures "Rs. 60,000" and "Rs. 54,000", the letters and figures "Rs. 1,98,000" and "Rs. 1,80,000" shall respectively be substituted;

(c) in Part III,—

(i) in paragraph 2,—

(A) in clause (b),—

(a) for the letters and figures "Rs. 1,600", the letters and figures "Rs. 5,200" shall be substituted;

(b) the portion beginning with the words "but in no case such additional or special pension" and ending with the words, letters and figures "shall exceed Rs. 8,000 per annum" shall be omitted;

(B) in the proviso, for the letters and figures "Rs. 60,000" and "Rs. 54,000", the letters and figures "Rs. 1,98,000" and "Rs. 1,80,000" shall respectively be substituted.

Sd/—

Dr. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20th April, 1999.

No. RP/29/99/Act-8/99/E.—The following Act of Parliament is
re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 8th January, 1999/Pausa 18, 1920 (Saka).

The following Act of Parliament received the assent of the President on the
8th January, 1999 and is hereby published for general information :

THE CUSTOMS (AMENDMENT) ACT, 1998.

(Act No. 8 of 1999)

(8th January, 1999)

AN ACT

further to amend the Customs Act, 1962.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India
as follows :—

1. This Act may be called the Customs (Amendment) Act, 1998.

Short title.

Amendment of
section 75A of
Act 52 of 1962.

2. In section 75A of the Customs Act, 1962,—

(a) in sub-section (1) for the words "period of three months" at both the places where they occur, the words "period of two months" shall be substituted;

(b) in sub-section (2) for the words "three months" at both the places where they occur, the words "two months" shall be substituted.

Sd/—

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20th April, 1999.

No. RP/32/99/Act-11/99/E.—The following Act of Parliament is re-
published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New-Delhi, the 8th January, 1999/Pausa 18, 1920 (Saka).

The following Act of Parliament received the assent of the President on the
8th January, 1999 and is hereby published for general information :-

THE INCOME-TAX (SECOND AMENDMENT) ACT, 1998.

(Act No. 11 of 1999)

(8th January, 1999)

AN ACT

further to amend the Income-tax Act, 1961.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as
follows:—

1. (1) This Act may be called the Income-tax (Second Amendment) Act, 1998.

Short title and
commence-
ment.

(2) Save as otherwise provided in this Act, it shall come into force on the 1st day of
April, 1999.

43 of 1961.

2. In section 10 of the Income-tax Act, 1961 (hereinafter referred to as the Income-
tax Act), in clause (23G), the *Explanation* shall be numbered as *Explanation 1* thereof
and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted,
namely:—

Amendment of
section 10.

*“Explanation 2.—For the removal of doubts, it is hereby declared that any
income by way of dividends, interest or long term capital gains of an infrastructure
capital fund or an infrastructure capital company from investments made before the
1st day of June, 1998 by way of shares or long term finance in any enterprise carrying
on the business of developing, maintaining and operating any infrastructure facility
shall not be included and the provisions of this clause as it stood immediately before
its amendment by the Finance (No. 2) Act, 1998 shall apply to such income.”*

21 of 1998.

Amendment of
section 10A.

3. In section 10A of the Income-tax Act,—

(a) in sub-section (3),—

(i) for the word "five", the word "ten" shall be substituted;

(ii) the words "falling within a period of eight years" and "specified by the assessee at his option" shall be omitted;

(iii) the proviso shall be omitted;

(b) in the *Explanation* below sub-section (8), for clause (ii), the following clause shall be substituted, namely,—

"(ii) "relevant assessment years" means the ten consecutive assessment years referred to in sub-section (3);"

Amendment of
section 10B.

4. In section 10B of the Income-tax Act,—

(a) in sub-section (3),—

(i) for the word "five", the word "ten" shall be substituted;

(ii) the words "falling within a period of eight years" and "specified by the assessee at his option" shall be omitted;

(iii) the proviso shall be omitted;

(b) In the *Explanation* below sub-section (7) for clause (ii), the following clause shall be substituted, namely,—

"(ii) "relevant assessment years" means the ten consecutive assessment years referred to in sub-section (3);"

Amendment of
section 32.

5. In section 32 of the Income-tax Act, in sub-section (1), in clause (ii), after the second proviso, the following shall be inserted, namely:—

"Provided also that where an asset being commercial vehicle is acquired by the assessee on or after the 1st day of October, 1998 but before the 1st day of April, 1999 and is put to use before the 1st day of April, 1999 for the purposes of business or profession, the deduction in respect of such asset shall be allowed on such percentage on the written down value thereof as may be prescribed.

Explanation.—For the purposes of this proviso,—

(a) the expression "commercial vehicle" means "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle" and "medium passenger motor vehicle" but does not include "maxi-cab", "motor-cab", "tractor" and "road-roller";

(b) the expressions "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle", "medium passenger motor vehicle", "maxi-cab", "motor-cab", "tractor" and "road-roller" shall have the meanings respectively as assigned to them in section 2 of the Motor Vehicles Act, 1988.

59 of 1988.

Amendment of
section 44AD.

6. In section 44AD of the Income-tax Act, after sub-section (4), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1997, namely:—

"(5) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business during the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or any earlier assessment year, are lower than the profits and gains specified in sub-section (1), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143."

7. In section 44AE of the Income-tax Act, after sub-section (5), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1997, namely:—

Amendment of
section 44AE.

“(6) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business during the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or any earlier assessment year, are lower than the profits and gains specified in sub-sections (1) and (2), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143.”

8. In section 80P of the Income-tax Act, in sub-section (2), in clause (a), for sub-clause (iii), the following sub-clause shall be substituted, and shall be deemed to have been substituted with effect from the 1st day of April, 1968, namely:—

Amendment of
section 80P.

“(iii) the marketing of agricultural produce grown by its members, or”.

Sd/—

Dr. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

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PART—VI

Acts of Parliament and Ordinance promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 26th July, 1999.

No. RP/66/99/Ord/7/99/E :—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-Ordinary, Part II, Section 1, dated the 1st July, 1999 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 1st July, 1999 Asadha 10, 1921 (Saka)

THE INCOME-TAX (AMENDMENT) ORDINANCE, 1999.

No. 7 OF 1999

Promulgated by the President in the Fiftieth Year of the Republic of India.

An Ordinance further to amend the Income-tax Act, 1961.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. (1) This Ordinance may be called the Income-tax (Amendment) Ordinance, 1999.

(2) It shall come into force at once.

Short title
and comm-
encement.

Amend-
ment of
section
80G of Act
43 of 1961,

2. In section 80G of the Income-tax Act, 1961, in sub-section (1), in clause (i), for the words, brackets, figures and letter "in sub-clause (vii)", the words, brackets, figures and letter "in sub-clause (i) or in sub-clause (vii)" shall be substituted with effect from the 1st day of April, 2000.

Sd/—

K. R. NARAYANAN,
President.

Sd/—

RAGHUBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st September, 1999.

No. RP/82/99/Ast-12/99/E.—The following Act of Parliament is re-published
for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)
New Delhi, the 19th March, 1999/Phalguna 28, 1920 (Saka).

The following Act of Parliament received the assent of the President on the
18th March, 1999 and is hereby published for general information :

THE FINANCE (No. 2) AMENDMENT ACT, 1999

(Act No. 12 of 1999)

(18th March, 1999)

AN ACT

to amend the Finance (No. 2) Act, 1998.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Finance (No. 2) Amendment Act, 1999.

(2) It shall be deemed to have come into force on the 31st day of December, 1998.

Short title and
commence-
ment.

Amendment of
section 88.

2. In the Finance (No. 2) Act, 1998 (hereinafter referred to as the principal Act), in section 88, in the opening paragraph, for the words, figures and letters "before the 31st day of December, 1998", the words, figures and letters "before the 31st day of January, 1999" shall be substituted. 21 of 1998.

Amendment of
section 90.

3. In section 90 of the principal Act, in sub-section (1), after the second proviso, the following proviso shall be inserted, namely:—

'Provided also that in a case where the declaration is made on or after the 1st day of January, 1999, the provisions of this sub-section shall have effect as if for the words "within sixty days", the words "within thirty days" had been substituted.'

Repeal and
saving.

4. (1) The Finance (No. 2) Amendment Ordinance, 1998 is hereby repealed.

Ord. 20 of
1998.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd./—

Dr. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st September, 1999.

No. RP/74/99/Act-15/99/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
 (Legislative Department)

New Delhi, the 22nd March, 1999/Chaitra 1, 1921 (Saka).

The following Act of Parliament received the assent of the President on the 22nd March, 1999, and is hereby published for general information :

THE URBAN LAND (CEILING AND REGULATION) REPEAL ACT, 1999

(Act No. 15 of 1999)

(22nd March, 1999)

An Act to repeal the Urban Land (Ceiling and Regulation) Act, 1976.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Urban Land (Ceiling and Regulation) Repeal Act, 1999.

(2) It applies in the first instance to the whole of the States of Haryana and Punjab and to all the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (2) of article 252 of the Constitution.

(3) It shall be deemed to have come into force in the States of Haryana and Punjab and in all the Union territories on the 11th day of January, 1999 and in any other State which adopts this Act under clause (2) of article 252 of the Constitution on the date of such adoption; and the reference to repeal of the Urban Land (Ceiling and Regulation) Act, 1976 shall, in relation to any State or Union territory, mean the date on which this Act comes into force in such State or Union territory.

2. The Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as the principal Act) is hereby repealed.

Short title,
application and
commencement.

Repeal of Act
33 of 1976.

33 of 1976.

Savings.

3. (1) The repeal of the principal Act shall not affect—

(a) the vesting of any vacant land under sub-section (3) of section 10, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority;

(b) the validity of any order granting exemption under sub-section (1) of section 20 or any action taken thereunder, notwithstanding any judgment of any court to the contrary;

(c) any payment made to the State Government as a condition for granting exemption under sub-section (1) of section 20.

(2) Where—

(a) any land is deemed to have vested in the State Government under sub-section (3) of section 10 of the principal Act but possession of which has not been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority; and

(b) any amount has been paid by the State Government with respect to such land,

then, such land shall not be restored unless the amount paid, if any, has been refunded to the State Government.

Abatement of legal proceedings.

4. All proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any court, tribunal or other authority shall abate;

Provided that this section shall not apply to the proceedings relating to sections 11, 12, 13 and 14 of the principal Act in so far as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority.

Repeal and saving.

5. (1) The Urban Land (Ceiling and Regulation) Repeal Ordinance, 1999 is hereby repealed. Ord. 5 of 1999.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

Sd./—

RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

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LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st September, 1999.

No. RP/75/99/Act-16/99/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)
New Delhi, the 22nd March, 1999/Chaitra 1, 1921 (Saka).

The following Act of Parliament received the assent of the President on the 22nd March, 1999, and is hereby published for general information :—

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF PARLIAMENT (AMENDMENT) ACT, 1999

(Act No. 16 of 1999)

(22nd March, 1999)

An Act further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1999.

Short title and
commence-
ment.

(2) Save as otherwise provided in this Act, it shall come into force at once.

30 of 1954.

2. In the Salary, Allowances and Pension of Members of Parliament Act, 1954 (hereinafter referred to as the principal Act), in section 5,—

Amendment of
section 5.

(i) in sub-section (2), for the words "either alone or along with companion or spouse," the words "either alone or along with spouse or any number of companions or relatives," shall be substituted;

(ii) in *Explanation III*, for the words "the companion or the spouse shall be added in computing the limit of twenty-eight journeys specified in the

proviso to that sub-section", the words "spouse, companions or relatives shall be added in computing the limit of thirty-two journeys specified in the proviso to that sub-section" shall be substituted.

Amendment of section 6.

3. In section 6 of the principal Act, in sub-sections (1), (3) and (4), for the words "air-conditioned two-tier", wherever they occur, the words "first class air-conditioned or executive class of any train" shall be substituted.

Substitution of new section for section 6B.

4. For section 6B of the principal Act, the following section shall be substituted, namely:—

Travel facilities to members.

"6B. Without prejudice to the other provisions of this Act, every member shall be entitled to—

(i) one free air-conditioned two-tier class railway pass for one person to accompany the member when he travels by rail; and

(ii) free travel by any railway in India in first class air-conditioned or executive class in any train with the spouse, if any, of the member from any place in India to any other place in India and if such journey or part thereof is performed by air, from any place other than usual place of residence of the member, to Delhi and back, to an amount equal to the fare by air for such journey or part thereof or the amount equal to the journey performed by air from the usual place of the residence of the member to Delhi and back, whichever is less."

Amendment of section 8A.

5. In section 8A of the principal Act, in sub-section (1),—

(a) in the second and third provisos, for the words "one thousand and four hundred rupees per mensem", the words "two thousand and five hundred rupees per mensem" shall respectively be deemed to have been substituted with effect from the 20th day of August, 1998;

(b) after *Explanation 2*, the following *Explanation* shall be deemed to have been inserted with effect from the 9th day of September, 1976, namely:—

"*Explanation 3*.—Where in any General Election held for the purpose of constituting a new House of the People, poll could not be taken in any Parliamentary constituency or any part thereof on the date originally fixed under clause (d) of section 30 of the Representation of the People Act, 1951 on account of such constituency or any part thereof being affected by terrorism, insurgency or public order problem, the member elected to such House from such constituency shall be deemed, for the purposes of this sub-section, to have served as member for such House from the date of publication, under section 73 of the said Act, of the notification relating to such House and he shall be entitled to receive pension at the rate admissible under the law for the time being in force on and from the date on which the dissolution of such House took place."

43 of 1951.

Insertion of new section 8AA.

6. After section 8A of the principal Act, the following section shall be deemed to have been inserted with effect from the 18th day of January, 1999, namely:—

Travel facility to ex-members.

"8AA. With effect from the 18th day of January, 1999, every person who is not a sitting member but has served for any period as a member of either House of Parliament shall be entitled along with a companion to travel in any train by any railway in India in air-conditioned two-tier class without payment of any charges

on the basis of an authorisation issued for this purpose by the Secretariat of either House of Parliament, as the case may be."

Ord. 6 of
1999.

7. (1) The Salary, Allowances and Pension of Members of Parliament (Amendment) Ordinance, 1999 is hereby repealed.

Repeal and
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act.

Sd./—

RAGHBIR SINGH,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

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Acts of Parliament and Ordinances promulgated by the President.
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st September, 1999.

No. RP/76/99/Act-17/99/E.—The following Act of Parliament is re-published
 for general information :

GOVERNMENT OF INDIA
 MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
 (Legislative Department)
New Delhi, the 26th March, 1999/Chaitra 5, 1921 (Saka).

The following Act of Parliament received the assent of the President on the
 26th March, 1999, and is hereby published for general information :

THE PATENTS (AMENDMENT) ACT, 1999

(Act No. 17 of 1999)

(26th March, 1999)

An Act further to amend the Patents Act, 1970:

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Patents (Amendment) Act, 1999.

Short title and
 commence-
 ment.

(2) It shall be deemed to have come into force on the 1st day of January, 1995.

39 of 1970.

2. Section 5 of the Patents Act, 1970 (hereinafter referred to as the principal Act) shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

Amendment of
 section 5.

"(2) Notwithstanding anything contained in sub-section (1), a claim for patent of an invention for a substance itself intended for use, or capable of being used, as medicine or drug, except the medicine or drug specified under sub-clause (v) of clause (1) of sub-section (1) of section 2, may be made and shall be dealt, without prejudice to the other provisions of this Act, in the manner provided in Chapter IVA."

Insertion of
new Chapter
IVA.

3. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

CHAPTER IVA

EXCLUSIVE MARKETING RIGHTS

Application for
grant of
exclusive
rights.

24A. (1) Notwithstanding anything contained in sub-section (1) of section 12, the Controller shall not, under that sub-section, refer an application in respect of a claim for a patent covered under sub-section (2) of section 5 to an examiner for making a report on the 31st day of December, 2004 and shall, where an application for grant of exclusive right to sell or distribute the article or substance in India has been made in the prescribed form and manner and on payment of prescribed fee, refer the application for patent, to an examiner for making a report to him as to whether the invention is not an invention within the meaning of this Act in terms of section 3 or the invention is an invention for which no patent can be granted in terms of section 4.

(2) Where the Controller, on receipt of a report under sub-section (1) and after such other investigation as he may deem necessary, is satisfied that the invention is not an invention within the meaning of this Act in terms of section 3 or the invention is an invention for which no patent can be granted in terms of section 4, he shall reject the application for exclusive right to sell or distribute the article or substance.

(3) In a case where an application for exclusive right to sell or distribute an article or a substance is not rejected by the Controller on receipt of a report under sub-section (1) and after such other investigation, if any, made by him, he may proceed to grant exclusive right to sell or distribute the article or substance in the manner provided in section 24B.

Explanation.—It is hereby clarified that for the purposes of this section, the exclusive right to sell or distribute any article or substance under this section shall not include an article or substance based on the system of Indian medicine as defined in clause (e) of sub-section (1) of section 2 of the Indian Medicine Central Council Act, 1970 and where such article or substance is already in the public domain.

48 of 1970.

Grant of
exclusive
rights.

24B. (1) Where a claim for patent covered under sub-section (2) of section 5 has been made and the applicant has,—

(a) where an invention has been made whether in India or in a country other than India and before filing such a claim, filed an application for the same invention claiming identical article or substance in a convention country on or after the 1st day of January, 1995 and the patent and the approval to sell or distribute the article or substance on the basis of appropriate tests conducted on or after the 1st day of January, 1995, in that country has been granted on or after the date of making a claim for patent covered under sub-section (2) of section 5; or

(b) where an invention has been made in India and before filing such a claim, made a claim for patent on or after the 1st day of January, 1995 for method or process of manufacture for that invention relating to identical article or substance and has been granted in India the patent therefor on or after the date of making a claim for patent covered under sub-section (2) of section 5,

and has received the approval to sell or distribute the article or substance from the authority specified in this behalf by the Central Government, then, he shall have the exclusive right by himself, his agents or licensees to sell or distribute in India the article or the substance on and from the date of approval granted by the Controller in this behalf till a period of five years or till the date of grant of patent or the date of rejection of application for the grant of patent, whichever is earlier.

(2) Where, the specifications of an invention relating to an article or a substance covered under sub-section (2) of section 5 have been recorded in a document or the invention has been tried or used, or, the article or the substance has been sold, by a person, before a claim for a patent of that invention is made in India or in a convention country, then, the sale or distribution of the article or substance by such person, after the claim referred to above is made, shall not be deemed to be an infringement of exclusive right to sell or distribute under sub-section (1):

Provided that nothing in this sub-section shall apply in a case where a person makes or uses an article or a substance with a view to sell or distribute the same, the details of invention relating thereto were given by a person who was holding an exclusive right to sell or distribute the article or substance.

24C. The provisions in relation to compulsory licences in Chapter XVI shall, subject to the necessary modifications, apply in relation to an exclusive right to sell or distribute under section 24B as they apply to, and in relation to, a right under a patent to sell or distribute and for that purpose the following modifications shall be deemed to have been made to the provisions of that Chapter and all their grammatical variations and cognate expressions shall be construed accordingly, namely:—

Compulsory
licences.

(a) throughout Chapter XVI,—

(i) working of the invention shall be deemed to be selling or distributing of the article or substance;

(ii) references to "patents" shall be deemed to be references to "right to sell or distribute";

(iii) references to "patented article" shall be deemed to be references to "an article for which exclusive right to sell or distribute has been granted";

(b) three years from the date of sealing of a patent in section 84 shall be deemed to be two years from the date of approval by the Controller for exclusive right to sell or distribute under section 24B;

(c) the time which has elapsed since the sealing of a patent under section 85 shall be deemed to be the time which has elapsed since the approval by the Controller for exclusive right to sell or distribute under section 24B;

(d) clauses (d) and (e) of section 90 shall be omitted.

24D. (1) Without prejudice to the provisions of any other law for the time being in force, where, at any time after an exclusive right to sell or distribute any article or substance has been granted under sub-section (1) of section 24B, the Central Government is satisfied that it is necessary or expedient in public interest to sell or distribute the article or substance by a person other than a person to whom exclusive right has been granted under sub-section (1) of section 24B, it may, by itself or through any person authorised in writing by it in this behalf, sell or distribute the article or substance.

Special
provision for
selling or
distribution.

(2) The Central Government may, by notification in the Official Gazette and at any time after an exclusive right to sell or distribute an article or a substance has been granted, direct, in the public interest and for reasons to be stated, that the said article or substance shall be sold at a price determined by an authority specified by it in this behalf.

24E. All suits relating to infringement of a right under section 24B shall be dealt with in the same manner as if they were suits concerning infringement of patents under Chapter XVIII.

Suits relating
to infringe-
ments.

Central Government and its officers not to be liable.

24F. The examination and investigations required under this Chapter shall not be deemed in any way to warrant the validity of any grant of exclusive right to sell or distribute, and no liability shall be incurred by the Central Government or any officer thereof by reason of, or in connection with, any such examination or investigation or any report or other proceedings consequent thereon.

Omission of section 39.

4. Section 39 of the principal Act shall be omitted.

Amendment of section 40.

5. In section 40 of the principal Act, the words and figures "or makes or causes to be made an application for the grant of a patent outside India in contravention of section 39" shall be omitted.

Amendment of section 64.

6. In section 64 of the principal Act, in sub-section (1), in clause (n), the words and figures "or made or caused to be made an application for the grant of a patent outside India in contravention of section 39" shall be omitted.

Amendment of section 118.

7. In section 118 of the principal Act, the words and figures "or makes or causes to be made an application for the grant of a patent in contravention of section 39" shall be omitted.

Insertion of new section 157A.

8. After section 157 of the principal Act, the following section shall be inserted, namely:—

Protection of security of India.

'157A. Notwithstanding anything contained in this Act, the Central Government shall —

(a) not disclose any information relating to any patentable invention or any application relating to the grant of a patent under this Act, which it considers prejudicial to the interest of security of India;

(b) take action including the revocation of any patent which it considers necessary in the interest of security of India:

Provided that the Central Government shall, before taking any action under this clause, issue a notification in the Official Gazette declaring its intention to take such action.

Explanation. — For the purposes of this section, the expression "security of India" means any action necessary for the security of India which—

(i) relates to fissionable materials or the materials from which they are derived; or

(ii) relates to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment; or

(iii) is taken in time of war or other emergency in matter of international relations.

Repeal and savings.

9. (1) The Patents (Amendment) Ordinance 1999, is hereby repealed.

Ord. 3 of 1999.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the Patents (Amendment) Ordinance, 1994, which ceased to operate, or under the Patents (Amendment) Ordinance, 1999, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Ord. 13 of 1994.

Ord. 3 of 1999.

(3) All applications made in respect of claims for patent of invention specified under sub-section (2) of section 5 of the principal Act, from the date of cesser of the Patents Ord. 13 of 1994. (Amendment) Ordinance, 1994 till the date on which this Act receives the assent of the President (both days inclusive) shall be deemed to have been validly made as if the provisions of the principal Act, as amended by this Act, had been in force at all material times.

Sd./—

RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

VI - EX. 36-2.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10th September, 1999.

No. RP/83/99/ORD-9/99/E.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 28th July, 1999 is republished for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 28th July, 1999/Sravana 6, 1921 (Saka)

THE CONTINGENCY FUND OF INDIA (AMENDMENT)
ORDINANCE, 1999

NO. 9 OF 1999

Promulgated by the President in the Fiftieth Year of the
Republic of India.

An Ordinance further to amend the Contingency Fund of India
Act, 1950.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Contingency Fund of India (Amendment) Ordinance, 1999.

(2) It shall come into force at once.

Short title
 and com-
 mencement.

Act 49 of
1950 to be
temporarily
amended.

2. During the period of operation of this Ordinance, the Contingency Fund of India Act, 1950 (hereinafter referred to as the principal Act) shall have effect subject to the amendment specified in section 3.

Amendment of
section 2.

3. In section 2 of the principal Act, for the provisos, the following proviso shall be substituted, namely:—

‘Provided that during the period beginning on the date of commencement of the Contingency Fund of India (Amendment) Ordinance, 1999 and ending on the 31st day of March, 2000, this section shall have effect subject to the modification that for the words “fifty crores of rupees”, the words “five hundred and fifty crores of rupees” shall be substituted.’

Sd./—

K. R. NARAYANAN,
President.

Sd./—

RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette
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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20th September, 1999.

No. RP/93/99/Ord-8/99/E.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 21st July, 1999 is republished for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 21st July, 1999/Asadha 30, 1921 (Saka)

**THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
 ORDINANCE, 1999**

(No. 8 OF 1999)

Promulgated by the President in the Fiftieth Year of the Republic
 of India.

An Ordinance further to amend the Representation of the People Act, 1951.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1999.

Short title and
 commence-
 ment.

(2) It shall come into force at once.

Amendment of
section 60 of
Act 43 of 1951.

2: In the Representation of the People Act, 1951, in section 60, after clause (b), the following clause shall be inserted, namely:—

“(c) any person belonging to a class of persons notified by the Election Commission in consultation with the Government to give his vote by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken subject to the fulfilment of such requirements as may be specified in those rules.”

Sd/-

K.R. NARAYANAN,

President.

Sd/-

RAGHBIR SINGH,

Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,

Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 1st October, 1999.

No. RP/87/99/Act-21/99/E.—The following Act of Parliament is re-published
 for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
 (Legislative Department)

New Delhi, the 1st April, 1999/11 Chaitra, 1921 (Saka).

The following Act of Parliament received the assent of the President on the 1st
 April, 1999 and is hereby published for general information :—

THE COMPANIES (AMENDMENT) ACT, 1999

(Act No. 21 of 1999)

(1st April, 1999)

AN ACT

further to amend the Companies Act, 1956.

Be it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 1999.

(2) It shall be deemed to have come into force on the 31st day of October, 1998.

2. In the Companies Act, 1956 (hereinafter referred to as the principal Act), in section
 4A, in sub-section (1), after clause (v), the following clause shall be inserted, namely:—

“(vi) the Infrastructure Development Finance Company Limited, a company
 formed and registered under this Act.”.

Short title and
 commence-
 ment.

Amendment of
 section 4A.

1 of 1956.

Amendment of
section 58A.

3. In section 58A of the principal Act, after sub-section (10) and before the *Explanation*, the following sub-section shall be inserted, namely:—

“(11) A depositor may, at any time, make a nomination and the provisions of sections 109A and 109B shall, as far as may be, apply to the nomination made under this sub-section.”.

Insertion of new
sections 77A,
77AA and 77B.

Power of
company to
purchase its
own securities.

4. After section 77 of the principal Act, the following sections shall be inserted, namely:—

‘77A. (1) Notwithstanding anything contained in this Act, but subject to the provisions of sub-section (2) of this section and section 77B, a company may purchase its own shares or other specified securities (hereinafter referred to as “buy-back”) out of—

- (i) its free reserves; or
- (ii) the securities premium account; or
- (iii) the proceeds of any shares or other specified securities:

Provided that no buy-back of any kind of shares or other specified securities shall be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities.

(2) No company shall purchase its own shares or other specified securities under sub-section (1), unless—

- (a) the buy-back is authorised by its articles;
- (b) a special resolution has been passed in general meeting of the company authorising the buy-back;
- (c) the buy-back is or less than twenty-five per cent. of the total paid-up capital and free reserves of the company:

Provided that the buy-back of equity shares in any financial year shall not exceed twenty-five per cent. of its total paid-up equity capital in that financial year.

- (d) the ratio of the debt owed by the company is not more than twice the capital and its free reserves after such buy-back:

Provided that the Central Government may prescribe a higher ratio of the debt than that specified under this clause for a class or classes of companies.

Explanation.—For the purposes of this clause, the expression “debt” includes all amounts of unsecured and secured debts;

- (e) all the shares or other specified securities for buy-back are fully paid-up;

(f) the buy-back of the shares or other specified securities listed on any recognised stock exchange is in accordance with the regulations made by the Securities and Exchange Board of India in this behalf;

(g) the buy-back in respect of shares or other specified securities other than those specified in clause (f) is in accordance with the guidelines as may be prescribed.

(3) The notice of the meeting at which special resolution is proposed to be passed shall be accompanied by an explanatory statement stating—

- (a) a full and complete disclosure of all material facts;
- (b) the necessity for the buy-back;
- (c) the class of security intended to be purchased under the buy-back;
- (d) the amount to be invested under the buy-back; and
- (e) the time limit for completion of buy-back.

(4) Every buy-back shall be completed within twelve months from the date of passing the special resolution under clause (b) of sub-section (2).

(5) The buy-back under sub-section (1) may be—

- (a) from the existing security holders on a proportionate basis; or
- (b) from the open market; or
- (c) from odd lots, that is to say, where the lot of securities of a public company, whose shares are listed on a recognised stock exchange, is smaller than such marketable lot, as may be specified by the stock exchange; or
- (d) by purchasing the securities issued to employees of the company pursuant to a scheme of stock option or sweat equity.

(6) Where a company has passed a special resolution under clause (b) of sub-section (2) to buy-back its own shares or other securities under this section, it shall, before making such buy-back, file with the Registrar and the Securities and Exchange Board of India a declaration of solvency in the form as may be prescribed and verified by an affidavit to the effect that the Board has made a full inquiry into the affairs of the company as a result of which they have formed an opinion that it is capable of meeting its liabilities and will not be rendered insolvent within a period of one year of the date of declaration adopted by the Board, and signed by at least two directors of the company, one of whom shall be the managing director, if any:

Provided that no declaration of solvency shall be filed with the Securities and Exchange Board of India by a company whose shares are not listed on any recognised stock exchange.

(7) Where a company buys-back its own securities, it shall extinguish and physically destroy the securities so bought-back within seven days of the last date of completion of buy-back.

(8) Where a company completes a buy-back of its shares or other specified securities under this section, it shall not make further issue of the same kind of shares (including allotment of further shares under clause (a) of sub-section (1) of section 81) or other specified securities within a period of twenty-four months except by way of bonus issue or in the discharge of subsisting obligations such as conversion of warrants, stock option schemes, sweat equity or conversion of preference shares or debentures into equity shares.

(9) Where a company buys-back its securities under this section, it shall maintain a register of the securities so bought, the consideration paid for the securities bought-back, the date of cancellation of securities, the date of extinguishing and physically destroying of securities and such other particulars as may be prescribed.

(10) A company shall, after the completion of the buy-back under this section, file with the Registrar and the Securities and Exchange Board of India, a return containing such particulars relating to the buy-back within thirty days of such completion, as may be prescribed:

Provided that no return shall be filed with the Securities and Exchange Board of India by a company whose shares are not listed on any recognised stock exchange.

(11) If a company makes default in complying with the provisions of this section or any rules made thereunder, or any regulations made under clause (f) of sub-section (2), the company or any officer of the company who is in default shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both.

Explanation.—For the purposes of this section,—

(a) “specified securities” includes employees’ stock option or other securities as may be notified by the Central Government from time to time;

(b) “free reserves” shall have the meaning assigned to it in clause (b) of *Explanation* to section 372A.

Transfer of certain sums to capital redemption reserve account.

77AA. Where a company purchases its own shares out of free reserves, then a sum equal to the nominal value of the share so purchased shall be transferred to the capital redemption reserve account referred to in clause (d) of the proviso to sub-section (1) of section 80 and details of such transfer shall be disclosed in the balance sheet.

Prohibition for buy-back in certain circumstances.

77B. (1) No company shall directly or indirectly purchase its own shares or other specified securities—

(a) through any subsidiary company including its own subsidiary companies; or

(b) through any investment company or group of investment companies; or

(c) if a default, by the company, in repayment of deposit or interest payable thereon, redemption of debentures or preference shares or payment of dividend to any shareholder or repayment of any term loan or interest payable thereon to any financial institution or bank, is subsisting.

(2) No company shall directly or indirectly purchase its own shares or other specified securities in case such company has not complied with the provisions of sections 159, 207 and 211.

Amendment of section 78.

5. In section 78 of the principal Act, for the word “share” wherever it occurs, the word “securities” shall be substituted.

Insertion of new section 79A.

6. After section 79 of the principal Act, the following section shall be inserted, namely:—

Issue of sweat equity shares.

‘79A. (1) Notwithstanding anything contained in section 79, a company may issue sweat equity shares of a class of shares already issued if the following conditions are fulfilled, namely:—

(a) the issue of sweat equity shares is authorised by a special resolution passed by the company in the general meeting;

(b) the resolution specifies the number of shares, current market price, consideration, if any, and the class or classes of directors or employees to whom such equity shares are to be issued;

(c) not less than one year has, at the date of the issue, elapsed since the date on which the company was entitled to commence business;

(d) the sweat equity shares of a company, whose equity shares are listed on a recognised stock exchange, are issued in accordance with the regulations made by the Securities and Exchange Board of India in this behalf;

Provided that in the case of a company whose equity shares are not listed on any recognised stock exchange, the sweat equity shares are issued in accordance with the guidelines as may be prescribed.

Explanation I.—For the purposes of this sub-section, the expression “a company” means the company incorporated, formed and registered under this Act and includes its subsidiary company incorporated in a country outside India.

Explanation II.—For the purposes of this Act, the expression “sweat equity shares” means equity shares issued by the company to employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.

(2) All the limitations, restrictions and provisions relating to equity shares shall be applicable to such sweat equity shares issued under sub-section (1).

7. In section 80 of the principal Act, in sub-section (1), in clause (c), for the words “share premium account”, the words “security premium account” shall be substituted.

Amendment of section 80.

8. In section 82 of the principal Act, for the word “shares”, the words “shares or debentures” shall be substituted.

Amendment of section 82.

9. After section 109 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 109A and 109B.

“109A. (1) Every holder of shares in, or holder of debentures of, a company may, at any time, nominate, in the prescribed manner, a person to whom his shares in, or debentures of, the company shall vest in the event of his death.

Nomination of shares.

(2) Where the shares in, or debentures of, a company are held by more than one person jointly, the joint holders may together nominate, in the prescribed manner, a person to whom all the rights in the shares or debentures of the company shall vest in the event of death of all the joint holders.

(3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such shares in, or debentures of, the company, where a nomination made in the prescribed manner purports to confer on any person the right to vest the shares in, or debentures of, the company, the nominee shall, on the death of the shareholder or holder of debentures of, the company or, as the case may be, on the death of the joint holders become entitled to all the rights in the shares or debentures of the company or, as the case may be, all the joint holders, in relation to such shares in, or debentures of the company to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(4) Where the nominee is a minor, it shall be lawful for the holder of the shares, or holder of debentures, to make the nomination to appoint, in the prescribed manner, any person to become entitled to shares in, or debentures of, the company, in the event of his death, during the minority.

109B. (1) Any person who becomes a nominee by virtue of the provisions of section 109A, upon the production of such evidence as may be required by the Board and subject as hereinafter provided, elect, either—

Transmission of shares.

(a) to be registered himself as holder of the share or debenture, as the case may be; or

(b) to make such transfer of the share or debenture, as the case may be, as the deceased shareholder or debenture holder, as the case may be, could have made.

(2) If the person being a nominee, so becoming entitled, elects to be registered as holder of the share or debenture, himself, as the case may be, he shall deliver or send to the company a notice in writing signed by him stating that he so elects and such notice shall be accompanied with the death certificate of the deceased shareholder or debenture holder, as the case may be.

(3) All the limitations, restrictions and provisions of this Act relating to the right to transfer and the registration of transfers of shares or debentures shall be applicable to any such notice or transfer as aforesaid as if the death of the member had not occurred and the notice or transfer were a transfer signed by that shareholder or debenture holder, as the case may be.

(4) A person, being a nominee, becoming entitled to a share or debenture by reason of the death of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share or debenture except that he shall not, before being registered a member in respect of his share or debenture, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company:

Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share or debenture, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share or debenture, until the requirements of the notice have been complied with."

Amendment of
section 205A.

10. In section 205A of the principal Act,—

(a) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) any money transferred to the unpaid dividend account of a company in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the company to the Fund established under sub-section (1) of section 205C."

(b) in sub-section (6),—

(i) for the words "general revenue account of the Central Government", the words, figures and letter "Fund established under section 205C" shall be substituted;

(ii) for the words "to such officer as the Central Government may appoint", the words "to such authority or committee as the Central Government may appoint" shall be substituted;

(c) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) The company shall be entitled to a receipt from the authority or committee under sub-section (4) of section 205C for any money transferred by it to the Fund and such a receipt shall be an effectual discharge of the company in respect thereof."

Amendment of
section 205B.

11. In section 205B of the principal Act, the following proviso shall be inserted at the end, namely:—

"Provided that nothing contained in this section shall apply to any person claiming to be entitled to any money transferred to the Fund referred to in section 205C on and after the commencement of the Companies (Amendment) Act, 1999."

Insertion of new
section 205C.

12. After section 205B of the principal Act, the following section shall be inserted, namely:—

"205C. (1) The Central Government shall establish a fund to be called the Investor Education and Protection Fund (hereafter in this section referred to as the "Fund").

(2) There shall be credited to the Fund the following amounts, namely:—

(a) amounts in the unpaid dividend accounts of companies;

Establishment
of Investor
Education and
Protection
Fund.

(b) the application moneys received by companies for allotment of any securities and due for refund;

(c) matured deposits with companies;

(d) matured debentures with companies;

(e) the interest accrued on the amounts referred to in clauses (a) to (d);

(f) grants and donations given to the Fund by the Central Government, State Governments, companies or any other institutions for the purposes of the Fund; and

(g) the interest or other income received out of the investments made from the Fund:

Provided that no such amounts referred to in clauses (a) to (d) shall form part of the Fund unless such amounts have remained unclaimed and unpaid for a period of seven years from the date they became due for payment.

Explanation.—For the removal of doubts, it is hereby declared that no claims shall lie against the Fund or the company in respect of individual amounts which were unclaimed and unpaid for a period of seven years from the dates that they first became due for payment and no payment shall be made in respect of any such claims.

(3) The Fund shall be utilised for promotion of investors' awareness and protection of the interests of investors in accordance with such rules as may be prescribed.

(4) The Central Government shall, by notification in the Official Gazette, specify an authority or committee, with such members as the Central Government may appoint, to administer the Fund, and maintain separate accounts and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(5) It shall be competent for the authority or committee appointed under subsection (4) to spend moneys out of the Fund for carrying out the objects for which the Fund has been established.

13. After section 210 of the principal Act, the following section shall be inserted, namely:—

"210A. (1) The Central Government may, by notification in the Official Gazette, constitute an Advisory Committee to be called the National Advisory Committee on Accounting Standards (hereafter in this section referred to as the "Advisory Committee") to advise the Central Government on the formulation and laying down of accounting policies and accounting standards for adoption by companies or class of companies under this Act.

(2) The Advisory Committee shall consist of the following members, namely:—

(a) a Chairperson who shall be a person of eminence and well versed in accountancy, finance, business administration, business law, economics or similar discipline;

(b) one member each nominated by the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949, the Institute of Cost and Works Accountants of India constituted under the Cost and Works Accountants Act, 1959 and the Institute of Company Secretaries of India constituted under the Company Secretaries Act, 1980;

(c) one representative of the Central Government to be nominated by it;

(d) one representative of the Reserve Bank of India to be nominated by it;

Insertion of
new section
210A.

Constitution of
National
Advisory
Committee on
Accounting
Standards.

38 of 1949.

23 of 1959.

56 of 1980.

(e) one representative of the Comptroller and Auditor-General of India to be nominated by him;

(f) a person who holds or has held the office of professor in accountancy, finance or business management in any university or deemed university;

(g) the Chairman of the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 or his nominee;

54 of 1963.

(h) two members to represent the chambers of commerce and industry to be nominated by the Central Government; and

(i) one representative of the Securities and Exchange Board of India to be nominated by it.

(3) The Advisory Committee shall give its recommendations to the Central Government on such matters of accounting policies and standards and auditing as may be referred to it for advice from time to time.

(4) The members of the Advisory Committee shall hold office for such term as may be determined by the Central Government at the time of their appointment and any vacancy in the membership in the Committee shall be filled by the Central Government in the same manner as the member whose vacancy occurred was filled.

(5) The non-official member of the Advisory Committee shall be entitled to such fees, travelling, conveyance and other allowances as are admissible to the officers of the Central Government of the highest rank.

Amendment of
section 211.

14. In section 211 of the principal Act, after sub-section (3), the following sub-sections shall be inserted, namely:—

(3A) Every profit and loss account and balance sheet of the company shall comply with the accounting standards.

(3B) Where the profit and loss account and the balance sheet of the company do not comply with the accounting standards, such companies shall disclose in its profit and loss account and balance sheet, the following, namely:—

(a) the deviation from the accounting standards;

(b) the reasons for such deviation; and

(c) the financial effect, if any, arising due to such deviation.

(3C) For the purposes of this section, the expression "accounting standards" means the standards of accounting recommended by the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949, as may be prescribed by the Central Government in consultation with the National Advisory Committee on Accounting Standards established under sub-section (1) of section 210A:

38 of 1949.

Provided that the standards of accounting specified by the Institute of Chartered Accountants of India shall be deemed to be the accounting standards until the accounting standards are prescribed by the Central Government under this sub-section.

Amendment of
section 217.

15. In section 217 of the principal Act, after sub-section (2A), the following sub-section shall be inserted, namely:—

"(2B) The Board's report shall also specify the reasons for the failure, if any, to complete the buy-back within the time specified in sub-section (4) of section 77A."

Amendment of
section 227.

16. In section 227 of the principal Act, in sub-section (3),—

(i) after clause (c), the following clause shall be inserted, namely:—

"(d) whether, in his opinion, the profit and loss account and balance sheet comply with the accounting standards referred to in sub-section (3C) of section 211";

(ii) in sub-section (4), for the word, brackets and letter "and (c)", the brackets, letters and word "(c) and (d)" shall be substituted.

17. In section 370 of the principal Act, after sub-section (5), and before the *Explanation*, the following sub-section shall be inserted, namely:—

Amendment of section 370.

"(6) Nothing contained in this section shall apply to a company on and after the commencement of the Companies (Amendment) Act, 1999."

18. In section 372 of the principal Act, after sub-section (14), the following sub-section shall be inserted, namely:—

Amendment of section 372.

"(15) Nothing contained in this section shall apply to a company on and after the commencement of the Companies (Amendment) Act, 1999."

19. After section 372 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 372A.

372A. (1) No company shall, directly or indirectly,—

Inter-corporate loans and investments.

(a) make any loan to any other body corporate;

(b) give any guarantee, or provide security, in connection with a loan made by any other person to, or to any other person by, any body corporate; and

(c) acquire, by way of subscription, purchase or otherwise the securities of any other body corporate,

exceeding sixty per cent. of its paid-up share capital and free reserves, or one hundred per cent. of its free reserves, whichever is more:

Provided that where the aggregate of the loans and investments so far made, the amounts for which guarantee or security so far provided to or in all other bodies corporate, along with the investment, loan, guarantee or security proposed to be made or given by the Board, exceeds the aforesaid limits, no investment or loan shall be made or guarantee shall be given or security shall be provided unless previously authorised by a special resolution passed in a general meeting:

Provided further that the Board may give guarantee, without being previously authorised by a special resolution, if,—

(a) a resolution is passed in the meeting of the Board authorising to give guarantee in accordance with the provisions of this section;

(b) there exists exceptional circumstances which prevent the company from obtaining previous authorisation by a special resolution passed in a general meeting for giving a guarantee; and

(c) the resolution of the Board under clause (a) is confirmed within twelve months, in a general meeting of the company or the annual general meeting held immediately after passing of the Board's resolution, whichever is earlier:

Provided also that the notice of such resolution shall indicate clearly the specific limits, the particulars of the body corporate in which the investment is proposed to be made or loan or security or guarantee to be given, the purpose of the investment, loan or security or guarantee, specific sources of funding and such other details.

(2) No loan or investment shall be made or guarantee or security given by the company unless the resolution sanctioning it is passed at a meeting of the Board with the consent of all the directors present at the meeting and the prior approval of the public financial institution referred to in section 4A, where any term loan is subsisting, is obtained;

Provided that prior approval of a public financial institution shall not be required where the aggregate of the loans and investments so far made, the amounts for which guarantee or security so far provided to or in all other bodies corporate, along with the investments, loans, guarantee or security proposed to be made or given does not exceed the limit of sixty per cent. specified in sub-section (1), if there is no default in repayment of loan instalments or payment of interest thereon as per the terms and conditions of such loan to the public financial institution.

(3) No loan to any body corporate shall be made at a rate of interest lower than the prevailing bank rate, being the standard rate made public under section 49 of the Reserve Bank of India Act, 1934.

2 of 1934.

(4) No company, which has defaulted in complying with the provisions of section 58A, shall, directly or indirectly,—

(a) make any loan to any body corporate;

(b) give any guarantee, or provide security, in connection with a loan made by any other person to, or to any other person by, any body corporate; and

(c) acquire, by way of subscription, purchase or otherwise the securities of any other body corporate,

till such default is subsisting.

(5) (a) Every company shall keep a register showing the following particulars in respect of every investment or loan made, guarantee given or security provided by it in relation to any body corporate under sub-section (1), namely:—

(i) the name of the body corporate;

(ii) the amount, terms and purpose of the investment or loan or security or guarantee;

(iii) the date on which the investment or loan has been made; and

(iv) the date on which the guarantee has been given or security has been provided in connection with a loan.

(b) The particulars of investment, loan, guarantee or security referred to in clause (a) shall be entered chronologically in the register aforesaid within seven days of the making of such investment or loan, or the giving of such guarantee or the provision of such security.

(6) The register referred to in sub-section (5) shall be kept at the registered office of the company concerned and—

(a) shall be open to inspection at such office; and

(b) extracts may be taken therefrom and copies thereof may be required, by any member of the company to the same extent, in the same manner, and on payment of the same fees as in the case of the register of members of the company; and the provisions of section 163 shall apply accordingly.

(7) The Central Government may prescribe guidelines for the purposes of this section.

(8) Nothing contained in this section shall apply,—

(a) to any loan made, any guarantee given or any security provided or any investment made by—

(i) a banking company, or an insurance company, or a housing finance company in the ordinary course of its business, or a company established with the object of financing industrial enterprises, or of providing infrastructural facilities;

(ii) a company whose principal business is the acquisition of shares, stock, debentures or other securities;

(iii) a private company, unless it is a subsidiary of a public company;

(b) to investment made in shares allotted in pursuance of clause (a) of sub-section (1) of section 81.

(c) to any loan made by a holding company to its wholly owned subsidiary;

(d) to any guarantee given or any security provided by a holding company in respect of loan made to its wholly owned subsidiary; or

(e) to acquisition by a holding company, by way of subscription, purchases or otherwise, the securities of its wholly owned subsidiary.

(9) If default is made in complying with the provisions of this section, other than sub-section (5), the company and every officer of the company who is in default shall be punishable with imprisonment which may extend to two years or with fine which may extend to fifty thousand rupees:

Provided that where any such loan or any loan in connection with which any such guarantee or security has been given, or provided by the company, has been repaid in full, no punishment by way of imprisonment shall be imposed under this sub-section, and where such loan has been repaid in part, the maximum punishment which may be imposed under this sub-section by way of imprisonment shall be appropriately reduced:

Provided further that all persons who are knowingly parties to any such contravention shall be liable, jointly and severally, to the company for the repayment of the loan or for making good the same which the company may have been called upon to pay by virtue of the guarantee given or the securities provided by such company.

(10) If default is made in complying with the provisions of sub-section (5), the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees and also with a further fine which may extend to five hundred rupees for every day after the first day during which the default continues.

Explanation.—For the purposes of this section,—

(a) "loan" includes debentures or any deposit of money made by one company with another company, not being a banking company;

(b) "free reserves" means those reserves which, as per the latest audited balance sheet of the company, are free for distribution as dividend and shall include balance to the credit of the securities premium account but shall not include share application money.

20. In section 642 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment of
section 642.

"(4) Every regulation made by the Securities and Exchange Board of India under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation."

Repeal and
saving.

21. (1) The Companies (Amendment) Ordinance, 1999 is hereby repealed.

Ord. 1 of 1999.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd/-

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
 LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 4th October, 1999.

No. RP/86/99/Act-27/99/E.—The following Act of Parliament is re-published
 for general information :—

GOVERNMENT OF INDIA
 MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
 (Legislative Department)

New Delhi, the 11th May, 1999/21 Vaisakha, 1921 (Saka).

The following Act of Parliament received the assent of the President on the
 11th May, 1999 and is hereby published for general information :—

THE FINANCE ACT, 1999

(Act No. 27 of 1999)

(11th May, 1999)

AN ACT

*to give effect to the financial proposals of the Central Government for the financial
 year 1999-2000.*

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

CHAPTER I**PRELIMINARY**

1. (1) This Act may be called the Finance Act, 1999.

Short title and
 commencement.

(2) Save as otherwise provided in this Act, sections 2 to 99 [except clause (1) of section
 6] shall be deemed to have come into force on the 1st day of April, 1999.

CHAPTER II**RATES OF INCOME-TAX**

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year
 commencing on the 1st day of April, 1999, income-tax shall be charged at the rates specified
 in Part I of the First Schedule.

Income-tax.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding six hundred rupees, in addition to total income, and the total income exceeds fifty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be.

43 of 1961.

(4) In cases in which tax has to be charged and paid under section 115-O or section 115R of the Income-tax Act, the tax shall be charged and paid at the rates as specified in those sections and shall be increased—

(a) in the case of a person other than a company being resident in India, by a surcharge for purposes of the Union, calculated at the rate of ten per cent. of such tax;

(b) in the case of a domestic company, by a surcharge, calculated at the rate of ten per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule and shall be increased,—

(a) in the cases to which the provisions of sub-item (a) of item 1 of that Part apply, by a surcharge for purposes of the Union; and

(b) in the cases to which the provisions of sub-item (a) of item 2 of that Part apply, by a surcharge,

calculated in each case in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194-I, 194J, 194K, 194L, 196A, 196B, 196C and 196D of the Income-tax Act, the deduction shall be made at the rates specified in those sections and in cases in which tax

is to be deducted under sections 194C, 194EE, 194F, 194G, 194-I, 194J, 194K and 194L, the tax shall be increased—

(a) in the case of a person other than a company being resident in India, by a surcharge for purposes of the Union, calculated at the rate of ten per cent. of such tax;

(b) in the case of a domestic company, by a surcharge calculated at the rate of ten per cent. of such tax.

(7) In cases in which tax has to be collected under section 206C or under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in that section or at the rates specified in Part II of the First Schedule, as the case may be, and shall be increased—

(a) in the case of a person other than a company being resident in India, by a surcharge for purposes of the Union, calculated at the rate of ten per cent. of such tax;

(b) in the case of a domestic company, by a surcharge calculated at the rate of ten per cent. of such tax.

(8) Subject to the provisions of sub-section (9), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act shall be increased,—

(a) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union; and

(b) in the cases to which Paragraph E of that Part applies, by a surcharge, calculated in each case in the manner provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of income-tax computed in accordance with the provisions of sections 112 and 113 of the Income-tax Act shall be increased by a surcharge for purposes of the Union or surcharge as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under section 115ACA or section 115B or section 115BB of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union or a surcharge, as the case may be, calculated at the rate of ten per cent. of such "advance tax".

(9) In the cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds fifty thousand rupees, then, in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total

income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that the amount of income-tax or "advance tax" so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act, shall,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, referred to in Paragraph A of Part III, having a total income exceeding sixty thousand rupees, be increased by a surcharge for purposes of the Union;

(b) in the case of every artificial juridical person, referred to in Paragraph A of Part III, be increased by a surcharge for purposes of the Union,

calculated at the rate of ten per cent. of such income-tax or, as the case may be, "advance tax" and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided further that no surcharge shall be payable by a non-resident.

(10) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1999, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

Amendment of
section 2.

3. In section 2 of the Income-tax Act,—

(a) in clause (1B), in sub-clause (iii), for the word “nine-tenth”, the word “three-fourths” shall be substituted with effect from the 1st day of April, 2000;

(b) in clause (14), after sub-clause (v), the following sub-clause shall be inserted with effect from the 1st day of April, 2000, namely:—

“(vi) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government;”;

(c) after clause (19A), the following clauses shall be inserted with effect from the 1st day of April, 2000, namely:—

‘(19AA) “demerger”, in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956, by a demerged company of its one or more undertakings to any resulting company in such a manner that—

(i) all the property of the undertaking, being transferred by the demerged company, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger;

(ii) all the liabilities relating to the undertaking, being transferred by the demerged company, immediately before the demerger, become the liabilities of the resulting company by virtue of the demerger;

(iii) the property and the liabilities of the undertaking or undertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger;

(iv) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a proportionate basis;

(v) the shareholders holding not less than three-fourths in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become shareholders of the resulting company or companies by virtue of the demerger,

otherwise than as a result of the acquisition of the property or assets of the demerged company or any undertaking thereof by the resulting company;

(vi) the transfer of the undertaking is on a going concern basis;

(vii) the demerger is in accordance with the conditions, if any, notified under sub-section (5) of section 72A by the Central Government in this behalf.

Explanation 1.—For the purposes of this clause, “undertaking” shall include any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity.

Explanation 2.—For the purposes of this clause, the liabilities referred to in sub-clause (ii), shall include—

(a) the liabilities which arise out of the activities or operations of the undertaking;

(b) the specific loans or borrowings (including debentures) raised, incurred and utilised solely for the activities or operations of the undertaking; and

(c) in cases, other than those referred to in clause (a) or clause (b), so much of the amounts of general or multi-purpose borrowings, if any, of the demerged company as stand in the same proportion which the value of the assets transferred in a demerger bears to the total value of the assets of such demerged company immediately before the demerger.

Explanation 3.—For determining the value of the property referred to in sub-clause (iii), any change in the value of assets consequent to their revaluation shall be ignored.

Explanation 4.—For the purposes of this clause, the splitting up or the reconstruction of any authority or a body constituted or established under a Central, State or Provincial Act, or a local authority or a public sector company, into separate authorities or bodies or local authorities or companies, as the case may be, shall be deemed to be a demerger if such split up or reconstruction fulfils the conditions specified in sub-clauses (i) to (vii) of this clause, to the extent applicable;

(19AAA) “demerged company” means the company whose undertaking is transferred, pursuant to a demerger, to a resulting company;”

(d) in clause (22), after sub-clause (iii) and before *Explanation 1*, the following sub-clauses shall be inserted with effect from the 1st day of April, 2000, namely:—

“(iv) any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act, 1956;

1 of 1956.

(v) any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).”;

(e) in clause (30), after the word “resident”, the words, figures and brackets “, and for the purposes of sections 92, 93 and 168, includes a person who is not ordinarily resident within the meaning of clause (6) of section 6” shall be inserted;

(f) after clause (41), the following clause shall be inserted with effect from the 1st day of April, 2000, namely:—

“(41A) “resulting company” means one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger;”

(g) in clause (42A), in *Explanation 1*, after sub-clause (f), the following sub-clause shall be inserted with effect from the 1st day of April, 2000, namely:—

“(g) in the case of a capital asset, being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a demerger, there shall be included the period for which the share or shares held in the demerged company were held by the assessee;”;

(h) after clause (42B), the following clause shall be inserted with effect from the 1st day of April, 2000, namely:—

“(42C) “slump sale” means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.

Explanation 1.—For the purposes of this clause, “undertaking” shall have the meaning assigned to it in *Explanation 1* to clause (19AA).

Explanation 2.—For the removal of doubts, it is hereby declared that the determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities.

4. For section 3 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2000, namely:—

Substitution of new section for section 3.

'3. For the purposes of this Act, "previous year" means the financial year immediately preceding the assessment year:

"Previous year" defined.

Provided that, in the case of a business or profession newly set up, or a source of income newly coming into existence, in the said financial year, the previous year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and ending with the said financial year.'

5. In section 9 of the Income-tax Act, in sub-section (1), in clause (ii), for the *Explanation*, the following *Explanation* shall be substituted with effect from the 1st day of April, 2000, namely:—

Amendment of section 9.

"Explanation.—For the removal of doubts, it is hereby declared that the income of the nature referred to in this clause payable for—

(a) service rendered in India; and

(b) the rest period or leave period which is preceded and succeeded by services rendered in India and forms part of the service contract of employment,

shall be regarded as income earned in India."

6. In section 10 of the Income-tax Act,—

Amendment of section 10.

(a) in clause (5B), the words, brackets, figures and letter " or sub-clause (vii) of clause (6)" shall be omitted;

(b) in clause (6BB), for the words, figures and letters "after the 31st day of March, 1997", the words, figures and letters "after the 31st day of March, 1997 but before the 1st day of April, 1999" shall be substituted with effect from the 1st day of April, 2000;

(c) in clause (10AA), in sub-clause (ii), for the words "eight months", the words "ten months" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;

(d) in clause (15), with effect from the 1st day of April, 2000,—

(i) in sub-clause (iv), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1*, as so numbered, the following *Explanation* shall be inserted, namely:—

'Explanation 2.—For the purposes of this clause, the expression "interest" includes hedging transaction charges on account of currency fluctuation.';

(ii) after sub-clause (v), the following sub-clause shall be inserted, namely:—

"(vi) interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government;"

(e) in clause (15A), for the words, figures and letters "entered before the 1st day of April, 1997", the words, figures and letters "not being an agreement entered into between the 1st day of April, 1997 and the 31st day of March, 1999," shall be substituted with effect from the 1st day of April, 2000;

(f) after clause (17A), the following clause shall be inserted with effect from the 1st day of April, 2000, namely:—

“(18) any income by way of—

(i) pension received by an individual who has been in the service of the Central Government or State Government and has been awarded “Param Vir Chakra” or “Maha Vir Chakra” or “Vir Chakra” or such other gallantry award as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(ii) family pension received by any member of the family of an individual referred to in sub-clause (i).

Explanation.—For the purposes of this clause, the expression “family” shall have the meaning assigned to it in the *Explanation* to clause (5);

(g) in clause (23C), for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that the Central Government, before notifying the fund or trust or institution, or the prescribed authority, before approving any university or other educational institution or any hospital or other medical institution, under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), may call for such documents (including audited annual accounts) or information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as it thinks necessary in order to satisfy itself about the genuineness of the activities of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, and the Central Government or the prescribed authority, as the case may be, may also make such inquiries as it deems necessary in this behalf;”

(h) in clause (23D), for the words “any income of—”, the words, figures and letter “subject to the provisions of Chapter XII-E, any income of—” shall be substituted with effect from the 1st day of April, 2000;

(i) in clause (23F), after the second proviso and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2000, namely:—

“Provided also that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 1999.”

(j) after clause (23F), the following clause shall be inserted with effect from the 1st day of April, 2000, namely:—

“(23FA) any income by way of dividends, other than dividends referred to in section 115-O, or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking;

Provided that such venture capital fund or venture capital company is approved, for the purposes of this clause, by the Central Government on an application made to it in accordance with the rules made in this behalf and which satisfies the prescribed conditions;

Provided further that any approval by the Central Government shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the order of approval.

Explanation.—For the purposes of this clause,—

(a) “venture capital fund” means such fund, operating under a trust deed

16 of 1908.

registered under the provisions of the Registration Act, 1908, established to raise monies by the trustees for investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines;

(b) "venture capital company" means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines; and

(c) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the—

(i) business of—

(A) software;

(B) information technology;

(C) production of basic drugs in the pharmaceutical sector;

(D) bio-technology;

(E) agriculture and allied sectors; or

(F) such other sectors as may be notified by the Central Government in this behalf; or

(ii) production or manufacture of any article or substance for which patent has been granted to the National Research Laboratory or any other scientific research institution approved by the Department of Science and Technology;

(k) in clause (23G), with effect from the 1st day of April, 2000,—

(A) for the words "the business of developing, maintaining and operating", the words, brackets and figures "the business of (i) developing, (ii) maintaining and operating, or (iii) developing, maintaining and operating" shall be substituted;

(B) in the *Explanation*, in clause (c),—

(i) in sub-clause (i), for the word, brackets, figure and letter "sub-section (4A)", the words, brackets and figures "clause (i) of sub-section (4)" shall be substituted;

(ii) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

"(ii) an industrial undertaking which—

(a) is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 2003;

(b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on the 1st day of April, 1999 and ending on the 31st day of March, 2003;";

(C) for sub-clause (iv), the following sub-clauses shall be substituted, namely:—

"(iv) a project for housing which fulfils the conditions specified in sub-section (10) of section 80-IB;

(v) an undertaking for developing, developing and operating or maintaining and operating an industrial park notified by the Central Government under clause (iii) of sub-section (4) of section 80-IA;";

(l) after clause (29), the following clause shall be inserted, namely:—

“(29A) any income accruing or arising to—

(a) the Coffee Board constituted under section 4 of the Coffee Act, 1942 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later; 7 of 1942.

(b) the Rubber Board constituted under sub-section (1) of section 4 of the Rubber Board Act, 1947 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later; 24 of 1947.

(c) the Tea Board established under section 4 of the Tea Act, 1953 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later; 29 of 1953.

(d) the Tobacco Board constituted under the Tobacco Board Act, 1975 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1975 or the previous year in which such Board was constituted, whichever is later; 4 of 1975.

(e) the Marine Products Export Development Authority established under section 4 of the Marine Products Export Development Authority Act, 1972 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1972 or the previous year in which such Authority was constituted, whichever is later; 13 of 1972.

(f) the Agricultural and Processed Food Products Export Development Authority established under section 4 of the Agricultural and Processed Food Products Export Development Act, 1985 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1985 or the previous year in which such Authority was constituted, whichever is later; 2 of 1986.

(g) the Spices Board constituted under sub-section (1) of section 3 of the Spices Board Act, 1986 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1986 or the previous year in which such Board was constituted, whichever is later; 10 of 1986.

(m) for clause (33), the following clause shall be substituted with effect from the 1st day of April, 2000, namely:—

“(33) any income by way of—

(i) dividends referred to in section 115-O; or

(ii) income received in respect of units from the Unit Trust of India established under the Unit Trust of India Act, 1963; or

(iii) income received in respect of the units of a mutual fund specified under clause (23D);”.

52 of 1963.

Insertion of new section 10C.

Special provision in respect of certain industrial undertakings in North-Eastern Region.

7. After section 10B of the Income-tax Act, the following section shall be inserted, namely:—

“10C. (1) Subject to the provisions of this section, any profits and gains derived by an assessee from an industrial undertaking, which has begun or begins to manufacture or produce any article or thing on or after the 1st day of April, 1998 in any Integrated Infrastructure Development Centre or Industrial Growth Centre located in the North-Eastern Region (hereafter in this section referred to as the industrial undertaking) shall not be included in the total income of the assessee.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely:—

(i) it is not formed by the splitting up, or the reconstruction of, a business already in existence:

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanation 1* and *Explanation 2* to sub-section (3) of section 80-IA shall apply for the purposes of clause (ii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things.

(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of any previous year relevant to any subsequent assessment year,—

(i) section 32, section 35 and clause (ix) of sub-section (1) of section 36 shall apply as if deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the industrial undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and, accordingly, sub-section (2) of section 32, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such deduction;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the industrial undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB or section 80JJA in relation to the profits and gains of the industrial undertakings; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the industrial undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

(5) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the industrial undertaking referred to in this section as they apply for the purposes of the industrial undertaking referred to in section 80-IA or section 80-IB, as the case may be.

(6) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee before the due date for furnishing the return of his income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him in any of the relevant assessment years.

Explanation.—For the purposes of this section,—

(i) "Integrated Infrastructure Development Centre" means such centres located in the States of the North-Eastern Region, which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(ii) "Industrial Growth Centre" means such centres located in the States of the North-Eastern Region, which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(iii) "North-Eastern Region" means the region comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

(iv) "relevant assessment years" means the ten consecutive years beginning with the year in which the industrial undertaking begins to manufacture or produce articles or things.

Amendment
of section-
12A.

Amendment
of section
12AA.

8. In section 12A of the Income-tax Act, the words "Chief Commissioner or", wherever they occur, shall be omitted with effect from the 1st day of June, 1999.

9. In section 12AA of the Income-tax Act, with effect from the 1st day of June, 1999,—

(a) in sub-section (1), the words "Chief Commissioner or" shall be omitted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) All applications, pending before the Chief Commissioner on which no order has been passed under clause (b) of sub-section (1) before the 1st day of June, 1999, shall stand transferred on that day to the Commissioner and the Commissioner may proceed with such applications under that sub-section from the stage at which they were on that day."

Amendment
of section 17.

10. In section 17 of the Income-tax Act, in clause (2), after sub-clause (iii), the following sub-clause shall be inserted with effect from the 1st day of April, 2000, namely:—

"(iiia) the value of any specified security allotted or transferred, directly or indirectly, by any person free of cost or at concessional rate, to an individual who is or has been in employment of that person:

Provided that in a case where allotment or transfer of specified securities is made in pursuance of an option exercised by an individual, the value of the specified securities shall be taxable in the previous year in which such option is exercised by such individual.

Explanation.—For the purposes of this clause,—

(a) "cost" means the amount actually paid for acquiring specified securities and where no money has been paid, the cost shall be taken as nil;

(b) "specified security" means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes employees' stock option and sweat equity shares;

(c) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called; and

(d) "value" means the difference between the fair market value and the cost for acquiring specified securities.

42 of 1956.

Amendment
of section 24.

11. In section 24 of the Income-tax Act, in sub-section (2), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2000, namely:—

'Provided further that where the property is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed before the 1st day of April, 2001, the provisions of the first proviso shall

have effect as if for the words "thirty thousand rupees", the words "seventy-five thousand rupees" had been substituted.

12. In section 32 of the Income-tax Act, in sub-section (1), in clause (ii), for the fourth proviso, the following proviso shall be substituted with effect from the 1st day of April, 2000, namely:—

Amendment
of section 32.

"Provided also that the aggregate deduction, in respect of depreciation of buildings, machinery, plant or furniture, being tangible assets or know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets allowable to the predecessor and the successor in the case of succession referred to in clause (xiii) and clause (xiv) of section 47 or section 170 or to the amalgamating company and the amalgamated company in the case of amalgamation, or to the demerged company and the resulting company in the case of demerger, as the case may be, shall not exceed in any previous year the deduction calculated at the prescribed rates as if the succession or the amalgamation or the demerger, as the case may be, had not taken place, and such deduction shall be apportioned between the predecessor and the successor, or the amalgamating company and the amalgamated company, or the demerged company and the resulting company, as the case may be, in the ratio of the number of days for which the assets were used by them."

13. In section 33ABA of the Income-tax Act, in sub-section (7), the proviso shall be omitted.

Amendment
of section
33ABA.

14. In section 33AC of the Income-tax Act, in sub-section (3), in clause (c), for the words "sold or otherwise transferred", the words "sold or otherwise transferred, other than in any scheme of demerger" shall be substituted with effect from the 1st day of April, 2000.

Amendment
of section
33AC.

15. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2000,—

Amendment
of section 35.

(a) in sub-section (1),—

(i) in clause (ii),—

(A) for the words "any sum paid", the words "an amount equal to one and one-fourth times of any sum paid" shall be substituted;

(B) in the proviso, for the words "prescribed authority", the words "Central Government" shall be substituted;

(ii) in clause (iii),—

(A) for the words "any sum paid", the words "an amount equal to one and one-fourth times of any sum paid" shall be substituted;

(B) in the proviso, for the words "prescribed authority", the words "Central Government" shall be substituted;

(iii) after clause (iv), in the first proviso, second proviso and third proviso, for the words "prescribed authority", wherever they occur, the words "Central Government" shall be substituted;

(b) in sub-section (2AB), in clause (5), for the figures "2000", the figures "2005" shall be substituted;

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) If any question arises under this section as to whether, and if so, to what extent, any activity constitutes or constituted, or any asset is or was being used for, scientific research, the Board shall refer the question to—

(a) the Central Government, when such question relates to any activity under clauses (ii) and (iii) of sub-section (1), and its decision shall be final;

(b) the prescribed authority, when such question relates to any activity other than the activity specified in clause (a), whose decision shall be final.”

Amendment
of section
35A.

16. In section 35A of the Income-tax Act, after sub-section (6), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:—

“(7) Where, in a scheme of demerger, the demerged company sells or otherwise transfers the rights to the resulting company (being an Indian company),—

(i) the provisions of sub-sections (3) and (4) shall not apply in the case of the demerged company; and

(ii) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company, if the latter had not sold or otherwise transferred the rights.”

Amendment
of section
35AB.

17. In section 35AB of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:—

“(3) Where there is a transfer of an undertaking under a scheme of amalgamation or demerger and the amalgamating or the demerged company is entitled to a deduction under this section, then, the amalgamated company or the resulting company, as the case may be, shall be entitled to claim deduction under this section in respect of such undertaking to the same extent and in respect of the residual period as it would have been allowable to the amalgamating company or the demerged company, as the case may be, had such amalgamation or demerger not taken place.”

Amendment
of section
35ABB.

18. In section 35ABB of the Income-tax Act,—

(a) in sub-section (1), for the words “for acquiring any right to operate telecommunication services”, the words “for acquiring any right to operate telecommunication services either before the commencement of the business to operate telecommunication services or thereafter at any time during any previous year” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1996;

(b) in the *Explanation* to sub-section (1), for clause (i), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1996, namely:—

“(i) “relevant previous years” means,—

(A) in a case where the licence fee is actually paid before the commencement of the business to operate telecommunication services, the previous years beginning with the previous year in which such business commenced;

(B) in any other case, the previous years beginning with the previous year in which the licence fee is actually paid,

and the subsequent previous year or years during which the licence, for which the fee is paid, shall be in force;”;

(c) after sub-section (6), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:—

“(7) Where, in a scheme of demerger, the demerged company sells or otherwise transfers the licence to the resulting company (being an Indian company),—

(i) the provisions of sub-sections (2), (3) and (4) shall not apply in the case of the demerged company; and

(ii) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company if the latter had not transferred the licence.”;

(d) after sub-section (7), as so inserted, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely:—

“(8) Where a deduction for any previous year under sub-section (1) is claimed and allowed in respect of any expenditure referred to in that sub-section, no deduction shall be allowed under sub-section (1) of section 32 for the same previous year or any subsequent previous year.”

19. In section 35D of the Income-tax Act, after sub-section (5), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:—

Amendment
of section 35D.

“(5A) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period specified in sub-section (1), to another company in a scheme of demerger,—

(i) no deduction shall be admissible under sub-section (1) in the case of the demerged company for the previous year in which the demerger takes place; and

(ii) the provisions of this section shall, as far as may be, apply to the resulting company, as they would have applied to the demerged company, if the demerger had not taken place.”

20. After section 35D of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2000, namely:—

Insertion of
new section
35DD.

“35DD. (1) Where an assessee, being an Indian company, incurs any expenditure, on or after the 1st day of April, 1999, wholly and exclusively for the purposes of amalgamation or demerger of an undertaking, the assessee shall be allowed a deduction of an amount equal to one-fifth of such expenditure for each of the five successive previous years beginning with the previous year in which the amalgamation or demerger takes place.

Amortisation
of expenditure
in case of
amalgamation
or demerger.

(2) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) under any other provision of this Act.”

21. In section 35E of the Income-tax Act, after sub-section (7), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:—

Amendment
of section 35E.

“(7A) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in sub-section (1), to another Indian company in a scheme of demerger,—

(i) no deduction shall be admissible under sub-section (1) in the case of the demerged company for the previous year in which the demerger takes place; and

(ii) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company, if the demerger had not taken place.”

22. In section 36 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2000,—

Amendment
of section 36.

(a) clause (iia) shall be omitted;

(b) in clause (viiia), in sub-clause (a), the following shall be inserted, namely:—

“Provided that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed in any of the relevant assessment years, deduction in respect of any provision made by it for any assets classified by the Reserve Bank

of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, for an amount not exceeding five per cent. of the amount of such assets shown in the books of account of the bank on the last day of the previous year.

Explanation.—For the purposes of this sub-clause, “relevant assessment years” means the five consecutive assessment years commencing on or after the 1st day of April, 2000 and ending before the 1st day of April, 2005;.

(c) in clause (viii),—

(i) the first proviso shall be omitted;

(ii) in the second proviso, for the words “Provided further that”, the words “Provided that” shall be substituted;

(d) after clause (x), the following shall be inserted, namely:—

“(xi) any expenditure incurred by the assessee, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, wholly and exclusively in respect of a non-Y2K compliant computer system, owned by the assessee and used for the purposes of his business or profession, so as to make such computer system Y2K compliant computer system:

Provided that no such deduction shall be allowed in respect of such expenditure under any other provisions of this Act:

Provided further that no such deduction shall be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this clause.

Explanation.—For the purposes of this clause,—

(a) “computer system” means a device or collection of devices including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, or more of which contain computer programmes, electronic instructions, input data and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication and control;

(b) “Y2K compliant computer system” means a computer system capable of correctly processing, providing or receiving data relating to date within and between the twentieth and twenty-first century.

Amendment
of section 40A.

23. In section 40A of the Income-tax Act, for sub-section (7), the following sub-section shall be substituted with effect from the 1st day of April, 2000, namely:—

“(7) (a) Subject to the provisions of clause (b), no deduction shall be allowed in respect of any provision (whether called as such or by any other name) made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason.

(b) Nothing in clause (a) shall apply in relation to any provision made by the assessee for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year.

Explanation.—For the removal of doubts, it is hereby declared that where any provision made by the assessee for the payment of gratuity to his employees on their retirement or termination of their employment for any reason has been allowed as a deduction in computing the income of the assessee for any assessment year, any sum paid out of such provision by way of contribution towards an approved gratuity fund or

by way of gratuity to any employee shall not be allowed as a deduction in computing the income of the assessee of the previous year in which the sum is so paid."

24. In section 41 of the Income-tax Act, in sub-section (1), in *Explanation 2*, after clause (iii), the following clause shall be inserted with effect from the 1st day of April, 2000, namely:—

Amendment
of section 41.

"(iv) where there has been a demerger, the resulting company."

25. In section 42 of the Income-tax Act, in sub-section (2), in clause (c), for the proviso, the following proviso shall be substituted with effect from the 1st day of April, 2000, namely:—

Amendment
of section 42.

"Provided that where in a scheme of amalgamation or demerger, the amalgamating or the demerged company sells or otherwise transfers the business to the amalgamated or the resulting company (being an Indian company), the provisions of this sub-section—

(i) shall not apply in the case of the amalgamating or the demerged company; and

(ii) shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the latter had not transferred the business or interest in the business."

26. In section 43 of the Income-tax Act, with effect from the 1st day of April, 2000,—

Amendment
of section 43.

(a) in clause (1),—

(i) after *Explanation 7*, the following *Explanation* shall be inserted, namely:—

"*Explanation 7A*.—Where, in a demerger, any capital asset is transferred by the demerged company to the resulting company and the resulting company is an Indian company, the actual cost of the transferred capital asset to the resulting company shall be taken to be the same as it would have been if the demerged company had continued to hold the capital asset for the purpose of its own business:

Provided that such actual cost shall not exceed the written down value of such capital asset in the hands of the demerged company."

(ii) after *Explanation 10*, the following *Explanation* shall be inserted, namely:—

"*Explanation 11*.—Where an asset which was acquired outside India by an assessee, being a non-resident, is brought by him to India and used for the purposes of his business or profession, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition by the assessee."

(b) in clause (6),—

(i) in sub-clause (c), in item (i), after sub-item (B), the following sub-item shall be inserted, namely:—

"(C) in the case of a slump sale, decrease by the actual cost of the asset falling within that block as reduced—

(a) by the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) by the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988 as if the asset was the only asset in the relevant block of assets,

so, however, that the amount of such decrease does not exceed the written down value;”;

(ii) after *Explanation 2*, the following *Explanations* shall be inserted, namely:—

“*Explanation 2A*.—Where in any previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (I), the written down value of the block of assets of the demerged company for the immediately preceding previous year shall be reduced by the book value of the assets transferred to the resulting company pursuant to the demerger.

Explanation 2B.—Where in a previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (I), the written down value of the block of assets in the case of the resulting company shall be the value of the assets as appearing in the books of account of the demerged company immediately before the demerger:

Provided that if the value of the assets as appearing in the books of account of the demerged company immediately before the demerger exceeds the written down value of such assets in the hands of the demerged company, the amount representing such excess shall be reduced from the written down value of the assets.”.

Amendment
of section 43B.

27. In section 43B of the Income-tax Act, in *Explanation 4*, for clause (aa), the following clause shall be substituted with effect from the 1st day of April, 2000, namely:—

“(aa) “scheduled bank” shall have the meaning assigned to it in the *Explanation* to clause (iii) of sub-section (5) of section 11;”.

Substitution of
new section for
section 43D.

28. For section 43D of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2000, namely:—

Special
provision in
case of income
of public
financial
institutions,
public
companies, etc.

“43D. Notwithstanding anything to the contrary contained in any other provision of this Act,—

(a) in the case of a public financial institution or a scheduled bank or a State financial corporation or a State industrial investment corporation, the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed having regard to the guidelines issued by the Reserve Bank of India in relation to such debts;

(b) in the case of a public company, the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed having regard to the guidelines issued by the National Housing Bank in relation to such debts,

shall be chargeable to tax in the previous year in which it is credited by the public financial institution or the scheduled bank or the State financial corporation or the State industrial investment corporation or the public company to its profit and loss account for that year or, as the case may be, in which it is actually received by that institution or bank or corporation or company, whichever is earlier.

Explanation.—For the purposes of this section,—

(a) “National Housing Bank” means the National Housing Bank established under section 3 of the National Housing Bank Act, 1987;

(b) “public company” means a company,—

(i) which is a public company within the meaning of section 3 of the Companies Act, 1956;

(ii) whose main object is carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes; and

53 of 1987.

1 of 1956.

53 of 1987.

(iii) which is registered in accordance with the Housing Finance Companies (NHB) Directions, 1989 given under section 30 and section 31 of the National Housing Bank Act, 1987;

1 of 1956.

(c) "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956;

(d) "scheduled bank" shall have the meaning assigned to it in clause (ii) of the Explanation to clause (viia) of sub-section (1) of section 36;

63 of 1951: 10

(e) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951;

1 of 1956.

(f) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956, engaged in the business of providing long-term finance for industrial projects.

29. In section 44AD of the Income-tax Act, after sub-section (5), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:—

Amendment
of section
44AD.

"(6) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-section (1), if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB."

30. In section 44AE of the Income-tax Act, after sub-section (6), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:—

Amendment
of section
44AE.

"(7) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-sections (1) and (2), if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB."

31. In section 44AF of the Income-tax Act, after sub-section (4), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:—

Amendment
of section
44AF.

"(5) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-section (1), if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB."

32. In section 45 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:—

Amendment
of section 45.

"(1A) Notwithstanding anything contained in sub-section (1), where any person receives at any time during any previous year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of—

(i) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or

(ii) riot or civil disturbance; or

(iii) accidental fire or explosion; or

(iv) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

then, any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the previous year in which such money or other asset was received and for the purposes of section 48, value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

Explanation.—For the purposes of this sub-section, the expression "insurer" shall have the meaning assigned to it in clause (9) of section 2 of the Insurance Act, 1938.

4 of 1938.

Insertion of new section 46A.

33. After section 46 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2000, namely:—

Capital gains on purchase by company of its own shares or other specified securities.

46A. Where a shareholder or a holder of other specified securities receives any consideration from any company for purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 48, the difference between the cost of acquisition and the value of consideration received by the shareholder or the holder of other specified securities, as the case may be, shall be deemed to be the capital gains arising to such shareholder or the holder of other specified securities, as the case may be, in the year in which such shares or other specified securities were purchased by the company.

Explanation.—For the purposes of this section, "specified securities" shall have the meaning assigned to it in *Explanation* to section 77A of the Companies Act, 1956.

1 of 1956.

Amendment of section 47.

34. In section 47 of the Income-tax Act, after clause (via), the following clauses shall be inserted with effect from the 1st day of April, 2000, namely:—

"(vib) any transfer, in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company;

(vic) any transfer in a demerger, of a capital asset, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if—

(a) at least seventy-five per cent. of the shareholders of the demerged foreign company continue to remain shareholders of the resulting foreign company; and

(b) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated;

Provided that the provisions of sections 391 to 394 of the Companies Act, 1956 shall not apply in case of demergers referred to in this clause;

1 of 1956.

(vid) any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company if the transfer or issue is made in consideration of demerger of the undertaking;"

Amendment of section 49.

35. In section 49 of the Income-tax Act, after sub-section (2A), the following sub-sections shall be inserted with effect from the 1st day of April, 2000, namely:—

(2B) Where the capital gain arises from the transfer of the specified security referred to in sub-clause (iiia) of clause (2) of section 17, the cost of acquisition of such specified security shall be the fair market value on the date of exercise of option.

(2C) The cost of acquisition of the shares in the resulting company shall be the amount which bears to the cost of acquisition of shares held by the assessee in the demerged company the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger.

(2D) The cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived at under sub-section (2C).

Explanation.—For the purposes of this section, “net worth” shall mean the aggregate of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger.

36. After section 50A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2000, namely:—

Insertion of new section 50B.

‘50B. (1) Any profits or gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of long-term capital assets and shall be deemed to be the income of the previous year in which the transfer took place:

Special provision for computation of capital gains in case of slump sale.

Provided that any profits or gains arising from the transfer under the slump sale of any capital asset being one or more undertakings owned and held by an assessee for not more than thirty-six months immediately preceding the date of its transfer shall be deemed to be the capital gains arising from the transfer of short-term capital assets.

(2) In relation to capital assets being an undertaking or division transferred by way of such sale, the “net worth” of the undertaking or the division, as the case may be, shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sections 48 and 49 and no regard shall be given to the provisions contained in the second proviso to section 48.

(3) Every assessee, in the case of slump sale, shall furnish in the prescribed form along with the return of income, a report of an accountant as defined in the *Explanation* below sub-section (2) of section 288, indicating the computation of the net worth of the undertaking or division, as the case may be, and certifying that the net worth of the undertaking or division, as the case may be, has been correctly arrived at in accordance with the provisions of this section.

Explanation.—For the purposes of this section, “net worth” means the net worth as defined in clause (ga) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985.’

1 of 1986.

37. In section 72 of the Income-tax Act, in sub-section (1), in clause (i), the proviso shall be omitted with effect from the 1st day of April, 2000.

Amendment of section 72.

38. For section 72A of the Income-tax Act, the following section shall be substituted, with effect from the 1st day of April, 2000, namely:—

Substitution of new section for section 72A.

‘72A. (1) Where there has been an amalgamation of a company owning an industrial undertaking or a ship with another company, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of this Act relating to set-off and carry forward of loss and allowance for depreciation shall apply accordingly.

Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc.

(2) Notwithstanding anything contained in sub-section (1), the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless the amalgamated company—

(i) holds continuously for a minimum period of five years from the date of amalgamation at least three-fourths in the value of assets of the amalgamating company acquired in a scheme of amalgamation;

(ii) continues the business of the amalgamating company for a minimum period of five years from the date of amalgamation;

(iii) fulfils such other conditions as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose.

(3) In a case where any of the conditions laid down in sub-section (2) are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the amalgamated company shall be deemed to be the income of the amalgamated company chargeable to tax for the year in which such conditions are not complied with.

(4) Notwithstanding anything contained in any other provisions of this Act, in the case of a demerger, the accumulated loss and the allowance for unabsorbed depreciation of the demerged company shall—

(a) where such loss or unabsorbed depreciation is directly relatable to the undertakings transferred to the resulting company, be allowed to be carried forward and set off in the hands of the resulting company;

(b) where such loss or unabsorbed depreciation is not directly relatable to the undertakings transferred to the resulting company, be apportioned between the demerged company and the resulting company in the same proportion in which the assets of the undertakings have been retained by the demerged company and transferred to the resulting company, and be allowed to be carried forward and set off in the hands of the demerged company or the resulting company, as the case may be.

(5) The Central Government may, for the purposes of this Act, by notification in the Official Gazette, specify such conditions as it considers necessary to ensure that the demerger is for genuine business purposes.

(6) Where there has been reorganisation of business, whereby, a firm is succeeded by a company fulfilling the conditions laid down in clause (xiii) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (xiv) of section 47, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor firm or the proprietary concern, as the case may be, shall be deemed to be the loss or allowance for depreciation of the successor company for the purpose of previous year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly:

Provided that if any of the conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) to section 47 are not complied with, the set-off of loss or allowance of depreciation made in any previous year in the hands of the successor company, shall be deemed to be the income of the company chargeable to tax in the year in which such conditions are not complied with.

(7) For the purposes of this section,—

(a) "accumulated loss" means so much of the loss of the predecessor firm or the proprietary concern or the amalgamating company or the demerged company, as the case may be, under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such predecessor firm or the proprietary concern or amalgamating company or demerged company, would have been entitled to carry forward and set off, under the provisions of section 72 if the reorganisation of business or amalgamation or demerger had not taken place;

(b) "unabsorbed depreciation" means so much of the allowance for depreciation of the predecessor firm or the proprietary concern or the amalgamating company or the demerged company, as the case may be, which remains to be allowed and which would have been allowed to the predecessor firm or the proprietary concern or amalgamating company or demerged company, as the case may be, under the provisions of this Act, if the reorganisation of business or amalgamation or demerger had not taken place."

39. In section 79 of the Income-tax Act, in clause (a), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2000, namely:—

Amendment
of section 79.

"Provided further that nothing contained in this section shall apply to any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one per cent. shareholders of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company."

40. In section 80D of the Income-tax Act, with effect from the 1st day of April, 2000,—

Amendment
of section 80D.

(a) in sub-section (1), after clause (ii), the following proviso shall be inserted, namely:—

"Provided that where the sum specified in sub-section (2) is paid to effect or to keep in force an insurance on the health of the assessee, or his wife or her husband or dependant parents or any member of the family in case the assessee is a Hindu undivided family, and who is a senior citizen, the provisions of this section shall have effect as if for the words "ten thousand rupees", the words "fifteen thousand rupees" had been substituted."

(b) in sub-section (2), the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purpose of this section, "senior citizen" shall have the meaning assigned to it in the *Explanation* to section 80DDB.

41. In section 80DD of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of April, 2000, namely:—

Amendment
of section
80DD.

"(1) Where an assessee, who is a resident in India, being an individual or a Hindu undivided family has, during the previous year,—

(a) incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a handicapped dependant; or

(b) paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or Unit Trust of India subject to the conditions specified in sub-section (2) and approved by the Board in this behalf for the maintenance of handicapped dependant,

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum of forty thousand rupees in respect of the previous year."

42. In section 80DDB of the Income-tax Act, with effect from the 1st day of April, 2000,—

Amendment
of section
80DDB.

(a) for the word "incurred", the words "actually incurred" shall be substituted;

(b) for the words "fifteen thousand rupees", the words "forty thousand rupees" shall be substituted;

(c) after the proviso, the following provisos shall be inserted, namely:—

"Provided further that the deduction under this section shall be reduced by the amount received, if any, under an insurance from an insurer for the medical treatment of the person referred to in clause (a) or clause (b):

Provided also that where the expenditure incurred is in respect of the assessee or his dependant relative or any member of a Hindu undivided family of the assessee and who is a senior citizen, the provisions of this section shall have effect as if for the words "forty thousand rupees", the words "sixty thousand rupees" had been substituted.;

(d) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

Explanation.—For the purposes of this section,—

(i) "dependant" means a person who is not dependant for his support or maintenance on any person other than the assessee;

(ii) "insurer" shall have the meaning assigned to it in clause (9) of section 2 of the Insurance Act, 1938;

4 of 1938.

(iii) "senior citizen" means an individual resident in India who is of the age of sixty-five years or more at any time during the relevant previous year.

Amendment
of section 80G.

43. In section 80G of the Income-tax Act, with effect from the 1st day of April, 2000,—

(a) in sub-section (1), in clause (i), after the words, brackets, figures and letters "or sub-clause (iihh)", the words, brackets, figures and letters "or sub-clause (iihi)" shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iihh), the following sub-clause shall be inserted, namely:—

"(iihi) the Fund for Technology Development and Application set up by the Central Government; or";

(c) after sub-section (5A) and before *Explanation 1*, the following sub-section shall be inserted, namely:—

"(5B) Notwithstanding anything contained in clause (ii) of sub-section (5) and *Explanation 3*, an institution or fund which incurs expenditure, during any previous year, which is of a religious nature for an amount not exceeding five per cent. of its total income in that previous year shall be deemed to be an institution or fund to which the provisions of this section apply."

Amendment
of section
80HHA.

44. In section 80HHA of the Income-tax Act, in the *Explanation*, for clause (b), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1978, namely:—

"(b) an industrial undertaking shall be deemed to be a small-scale industrial undertaking which is, on the last day of the previous year, regarded as a small-scale industrial undertaking under section 11B of the Industries (Development and Regulation) Act, 1951."

65 of 1951.

Amendment
of section
80HHB.

45. In section 80HHB of the Income-tax Act, with effect from the 1st day of June, 1999,—

(a) in sub-section (3),—

(i) after clause (i), the following clause shall be inserted, namely:—

"(ia) the assessee furnishes, along with his return of income, a certificate in the prescribed form from an accountant as defined in the *Explanation* below sub-section (2) of section 238, duly signed and verified by such accountant, certifying that the deduction has been correctly claimed in accordance with the provisions of this section;"

(ii) in clause (iii), for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf", the words

"within such further period as the competent authority may allow in this behalf" shall be substituted;

(b) after sub-section (3), the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of clause (iii), the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

46. In section 80HHC of the Income-tax Act,—

Amendment
of section
80HHC.

(a) in sub-section (2), with effect from the 1st day of June, 1999,—

(i) in clause (a), for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf", the words "within such further period as the competent authority may allow in this behalf" shall be substituted;

(ii) after clause (a), the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of this clause, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

(b) after sub-section (4A), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1992, namely:—

"(4B) For the purposes of computing the total income under sub-section (1) or sub-section (1A), any income not charged to tax under this Act shall be excluded."

47. In section 80HHD of the Income-tax Act,—

Amendment
of section
80HHD.

(a) in sub-section (2), with effect from the 1st day of June, 1999,—

(i) for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf", the words "within such further period as the competent authority may allow in this behalf" shall be substituted;

(ii) the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

Explanation 2.—For the purposes of this sub-section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

(b) in sub-section (2A), for the word "*Explanation*", the word and figure "*Explanation 1*" shall be substituted with effect from the 1st day of June, 1999;

(c) in sub-section (4), with effect from the 1st day of April, 2000,—

(i) after clause (e), the following clause shall be inserted, namely:—

"(f) subscription to equity shares forming part of any eligible issue of capital made by a public company:";

(ii) in the proviso, for the words, brackets and letters "clauses (a) to (e)", the words, brackets and letters "clauses (a) to (f)" shall be substituted;

(d) after sub-section (5), the following sub-section and *Explanation* shall be inserted with effect from the 1st day of April, 2000, namely:—

"(5A) Where any amount credited to the reserve account under clause (b) of sub-section (1) has been utilised for subscription to any equity shares referred to in clause

(f) of sub-section (4) and either whole or any part of such equity shares are transferred or converted into money by the assessee at any time within a period of three years from the date of their acquisition, the aggregate amount so utilised in respect of such equity shares shall be deemed to be the profits of the previous year in which the equity shares are transferred or converted into money.

Explanation.—A person shall be treated as having acquired any shares on the date on which his name is entered in relation to those shares in the register of members of the public company.”;

(e) in sub-section (6), for the words, brackets and figure “*Explanation* to sub-section (2)”, the words, brackets and figures “*Explanation 1* to sub-section (2)” shall be substituted with effect from the 1st day of June, 1999;

(f) in the *Explanation*, after clause (d), the following clause shall be inserted with effect from the 1st day of April, 2000, namely:—

‘(e) “eligible issue of capital” means an issue made by a public company formed and registered in India and the entire proceeds of the issue is utilised wholly and exclusively for the purpose of carrying on the business of—

(i) setting up and running of new hotels approved by the prescribed authority; or

(ii) providing such new facility for the growth of tourism in India, as the Central Government may, by notification in the Official Gazette, specify.’

Amendment
of section
80HHE.

48. In section 80HHE of the Income-tax Act, in sub-section (2), with effect from the 1st day of June, 1999,—

(a) for the portion beginning with the words “where the Commissioner” and ending with the words “may allow in this behalf”, the words “within such further period as the competent authority may allow in this behalf” shall be substituted;

(b) the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

‘*Explanation 2.*—For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.’

Insertion of new
section 80HHF.

49. After section 80HHE, the following section shall be inserted with effect from the 1st day of April, 2000, namely:—

‘80HHF. (1) Where an assessee, being an Indian company, is engaged in the business of export or transfer by any means out of India, of any film software, television software, music software, television news software, including telecast rights (hereafter in this section referred to as the software or software rights), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of the profits derived by the assessee from such business.

(2) The deduction specified in sub-section (1) shall be allowed only if the consideration in respect of the software or software rights referred to in that sub-section is received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or within such further period as the competent authority may allow in this behalf.

(3) For the purposes of sub-section (1), profits derived from the business referred to in that sub-section shall be the amount which bears to the profits of the business, the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee.

Deduction in
respect of
profits and gains
from export or
transfer of film
software, etc.

(4) The deduction under sub-section (1) shall not be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(5) Where a deduction under this section is claimed and allowed in respect of profits of the business referred to in sub-section (1) for any assessment year, no deduction shall be allowed in relation to such profits under any other provision of this Act for the same or any other assessment year.

(6) Notwithstanding anything contained in this section, no deduction shall be allowed in respect of the software or software rights referred to in sub-section (1), if such business is prohibited by any law for the time being in force.

Explanation.—For the purposes of this section,—

(a) “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange;

(b) “convertible foreign exchange” shall have the meaning assigned to it in clause (a) of the *Explanation* to section 80HHC;

(c) “export turnover” means the consideration in respect of the software or software rights specified in clauses (d), (e), (g), (h) and (i), received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (2), but does not include freight, telecommunication charges or insurance attributable to the delivery of such software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

(d) “film software” means a copy of a cinematograph film made by any process analogous to cinematography on acetate polyester or celluloid film positive, magnetic tape, digital media or other optical or magnetic devices and certified by the Board of film certification constituted by the Central Government under section 3 of the Cinematograph Act, 1952;

(e) “music software” includes series of sounds or music recorded on magnetic tape, cassette, compact discs and digital media which can be played or reproduced on any appropriate apparatus;

(f) “profits of the business” means the profits of the business as computed under the head “profits and gains of business or profession” as reduced by—

(A) ninety per cent. of any receipts by way of brokerage, commission, interest, rent, charges or any other receipt of a similar nature included in such profits; and

(B) the profits of any branch, office, warehouse or any other establishment of the assessee situated outside India;

(g) “telecast rights” means a licence or contract to exhibit motion pictures or television programmes over a television network either through terrestrial transmission or through a satellite broadcast in a specified territory;

(h) “television news software” means a collection of sounds and images, reportage, data and voice of actualities broadcast either through terrestrial transmission, wire or satellite, live or pre-recorded on video cassettes or digital media;

(i) “television software” means any programme or series of sounds and images recorded on film or tape or digital media or broadcast through terrestrial transmitter, satellite or any other means of diffusion;

(j) “total turnover” shall not include—

(A) any sum referred to in clauses (iia), (iib) and (iic) of section 28;

(B) any freight, telecommunication charges or insurance attributable to the delivery of the film software, music software, telecast rights, television news software, or television software as defined in clause (d), (e), (g), (h) or (i), as the case may be, outside India;

(C) expenses, if any, incurred in foreign exchange in providing the technical services outside India.

Substitution of new sections for section 80-IA.

50. For section 80-IA of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 2000, namely:—

Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

80 IA. (1) Where the gross total income of an assessee includes any profits and gains derived from any business of an industrial undertaking or an enterprise referred to in sub-section (4) (such business being hereinafter referred to as the eligible business), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to hundred per cent. of profits and gains derived from such business for the first five assessment years commencing at any time during the periods as specified in sub-section (2) and thereafter, twenty-five per cent. of the profits and gains for further five assessment years:

Provided that where the assessee is a company, the provisions of this sub-section shall have effect as if for the words "twenty-five per cent.", the words "thirty per cent." had been substituted.

(2) The deduction specified in sub-section (1) may, at the option of the assessee, be claimed by him for any ten consecutive assessment years out of fifteen years beginning from the year in which the undertaking or the enterprise develops and begins to operate any infrastructure facility or starts providing telecommunication service or develops an industrial park or generates power or commences transmission or distribution of power:

Provided that where the assessee begins operating and maintaining any infrastructure facility referred to in clause (b) of *Explanation* to clause (i) of sub-section (4), the provisions of this sub-section shall have effect as if for the words "fifteen years", the words "twenty years" had been substituted.

(3) This section applies to any industrial undertaking which fulfils all the following conditions, namely:—

(i) it is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of an industrial undertaking which is formed as a result of the re-establishment, re-construction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation 1.—For the purposes of clause (ii), any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(a) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(b) such machinery or plant is imported into India from any country outside India; and

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the assessee.

Explanation 2.—Where in the case of an industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in the business, then, for the purposes of clause (ii) of this sub-section, the condition specified therein shall be deemed to have been complied with.

(4) This section applies to—

(i) any enterprise carrying on the business of (i) developing, (ii) maintaining and operating or (iii) developing, maintaining and operating any infrastructure facility which fulfils all the following conditions, namely:—

(a) it is owned by a company registered in India or by a consortium of such companies;

(b) it has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for (i) developing, (ii) maintaining and operating or (iii) developing, maintaining and operating a new infrastructure facility subject to the condition that such infrastructure facility shall be transferred to the Central Government, State Government, local authority or such other statutory body, as the case may be, within the period stipulated in the agreement;

(c) it has started or starts operating and maintaining the infrastructure facility on or after the 1st day of April, 1995:

Provided that where an infrastructure facility is transferred on or after the 1st day of April, 1999 by an enterprise which developed such infrastructure facility (hereafter referred to in this section as the transferor enterprise) to another enterprise (hereafter in this section referred to as the transferee enterprise) for the purpose of operating and maintaining the infrastructure facility on its behalf in accordance with the agreement with the Central Government, State Government, local authority or statutory body, the provisions of this section shall apply to the transferee enterprise as if it were the enterprise to which this clause applies and the deduction from profits and gains would be available to such transferee enterprise for the unexpired period during which the transferor enterprise would have been entitled to the deduction, if the transfer had not taken place.

Explanation.—For the purposes of this clause, “infrastructure facility” means,—

(a) a road, bridge, airport, port, inland waterways and inland ports, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette;

(b) a highway project including housing or other activities being an integral part of the highway project; and

(c) a water supply project, irrigation project, sanitation and sewerage system;

(ii) any undertaking which has started or starts providing telecommunication services whether basic or cellular, including radio paging, domestic satellite service or network of trunking and electronic data interchange services at any time on or after the 1st day of April, 1995 but before the 31st day of March, 2000.

Explanation.—For the purposes of this clause, “domestic satellite” means a satellite owned and operated by an Indian company for providing telecommunication service.

(iii) any undertaking which develops, develops and operates or maintains and operates an industrial park notified by the Central Government in accordance with the scheme framed and notified by that Government for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002:

Provided that in a case where an undertaking develops an industrial park on or after the 1st day of April, 1999 and transfers the operation and maintenance of such industrial park to another undertaking (hereafter in this section referred to as the transferee undertaking) the deduction under sub-section (1), shall be allowed to such transferee undertaking for the remaining period in the ten consecutive assessment years in a manner as if the operation and maintenance were not so transferred to the transferee undertaking;

(iv) an industrial undertaking which,—

(a) is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 2003;

(b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on the 1st day of April, 1999 and ending on the 31st day of March, 2003:

Provided that the deduction under this section to an industrial undertaking under sub-clause (b) shall be allowed only in relation to the profits derived from laying of such network of new lines for transmission or distribution.

(5) Notwithstanding anything contained in any other provision of this Act, the profits and gains of an eligible business to which the provisions of sub-section (1) apply shall, for the purposes of determining the quantum of deduction under that sub-section for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, be computed as if such eligible business were the only source of income of the assessee during the previous year relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made.

(6) Notwithstanding anything contained in sub-section (4), where housing or other activities are an integral part of the highway project and the profits of which are computed on such basis and manner as may be prescribed, such profit shall not be liable to tax where the profit has been transferred to a special reserve account and the same is actually utilised for the highway project excluding housing and other activities before the expiry of three years following the year in which such amount was transferred to the reserve account; and the amount remaining unutilised shall be chargeable to tax as income of the year in which such transfer to reserve account took place.

(7) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (1) from profits and gains derived from an industrial undertaking shall not be admissible unless the accounts of the industrial undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

(8) Where any goods held for the purposes of the eligible business are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the eligible business and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the eligible business does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the

profits and gains of such eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date:

Provided that where, in the opinion of the Assessing Officer, the computation of the profits and gains of the eligible business in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such profits and gains on such reasonable basis as he may deem fit.

Explanation.—For the purposes of this sub-section, “market value”, in relation to any goods, means the price that such goods would ordinarily fetch on sale in the open market.

(9) Where any amount of profits and gains of an industrial undertaking or of an enterprise in the case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not be allowed under any other provisions of this Chapter under the heading “C.—Deductions in respect of certain incomes”, and shall in no case exceed the profits and gains of such eligible business of industrial undertaking or enterprise, as the case may be.

(10) Where it appears to the Assessing Officer that, owing to the close connection between the assessee carrying on the eligible business to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such eligible business, the Assessing Officer shall, in computing the profits and gains of such eligible business for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

(11) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this section shall not apply to any class of industrial undertaking or enterprise with effect from such date as it may specify in the notification.

(12) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.

80-IB. (1) Where the gross total income of an assessee includes any profits and gains derived from any business referred to in sub-sections (3) to (11) (such business being hereinafter referred to as the eligible business), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to such percentage and for such number of assessment years as specified in this section.

Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely:—

(i) it is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of an industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the

assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose;

(iii) it manufactures or produces any article or thing, not being any article or thing specified in the list in the Eleventh Schedule, or operates one or more cold storage plant or plants, in any part of India:

Provided that the condition in this clause shall, in relation to a small-scale industrial undertaking or an industrial undertaking referred to in sub-section (4) shall apply as if the words "not being any article or thing specified in the list in the Eleventh Schedule" had been omitted.

Explanation 1.—For the purposes of clause (ii), any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(a) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(b) such machinery or plant is imported into India from any country outside India; and

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

Explanation 2.—Where in the case of an industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in the business, then, for the purposes of clause (ii) of this sub-section, the condition specified therein shall be deemed to have been complied with;

(iv) in a case where the industrial undertaking manufactures or produces articles or things, the undertaking employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.

(3) The amount of deduction in the case of an industrial undertaking shall be twenty-five per cent. (or thirty per cent. where the assessee is a company), of the profits and gains derived from such industrial undertaking for a period of ten consecutive assessment years (or twelve consecutive assessment years where the assessee is a co-operative society) beginning with the initial assessment year subject to the fulfilment of the following conditions, namely:—

(i) it begins to manufacture or produce, articles or things or to operate such plant or plants at any time during the period beginning from the 1st day of April, 1991 and ending on the 31st day of March, 1995 or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular undertaking;

(ii) where it is an industrial undertaking being a small-scale industrial undertaking, it begins to manufacture or produce articles or things or to operate its cold storage plant [not specified in sub-section (4) or sub-section (5)] at any time during the period beginning on the 1st day of April, 1995 and ending on the 31st day of March, 2000.

(4) The amount of deduction in the case of an industrial undertaking in an industrially backward State specified in the Eighth Schedule shall be hundred per cent. of the profits and gains derived from such industrial undertaking for five assessment years beginning with the initial assessment year and thereafter twenty-five per cent. (or thirty per cent. where the assessee is a company) of the profits and gains derived from such industrial undertaking:

Provided that the total period of deduction does not exceed ten consecutive assessment years (or twelve consecutive assessment years where the assessee is a co-operative society) subject to fulfilment of the condition that it begins to manufacture or produce articles or things or to operate its cold storage plant or plants during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 2000:

Provided further that in the case of such industries in the North-Eastern Region, as may be notified by the Central Government, the amount of deduction shall be hundred per cent. of profits and gains for a period of ten assessment years, and the total period of deduction shall in such a case not exceed ten assessment years.

(5) The amount of deduction in the case of an industrial undertaking located in such industrially backward districts as the Central Government may, having regard to the prescribed guidelines, by notification in the Official Gazette, specify in this behalf as industrially backward district of category 'A' or an industrially backward district of category 'B' shall be,—

(i) hundred per cent. of the profits and gains derived from an industrial undertaking located in a backward district of category 'A' for five assessment years beginning with the initial assessment year and thereafter, twenty-five per cent. (or thirty per cent. where the assessee is a company) of the profits and gains of an industrial undertaking:

Provided that the total period of deduction shall not exceed ten consecutive assessment years or where the assessee is a co-operative society, twelve consecutive assessment years:

Provided further that the industrial undertaking begins to manufacture or produce articles or things or to operate its cold storage plant or plants at any time during the period beginning on the 1st day of October, 1994 and ending on the 31st day of March, 2000;

(ii) hundred per cent. of the profits and gains derived from an industrial undertaking located in a backward district of category 'B' for three assessment years beginning with the initial assessment year and thereafter, twenty-five per cent. (or thirty per cent. where the assessee is a company) of the profits and gains of an industrial undertaking:

Provided that the total period of deduction does not exceed eight consecutive assessment years (or where the assessee is a co-operative society, twelve consecutive assessment years):

Provided further that the industrial undertaking begins to manufacture or produce articles or things or to operate its cold storage plant or plants at any time during the period beginning on the 1st day of October, 1994 and ending on the 31st day of March, 2000.

(6) The amount of deduction in the case of the business of a ship shall be thirty per cent. of the profits and gains derived from such ship for a period of ten consecutive assessment years including the initial assessment year provided that the ship—

(i) is owned by an Indian company and is wholly used for the purposes of the business carried on by it;

(ii) was not, previous to the date of its acquisition by the Indian company, owned or used in Indian territorial waters by a person resident in India; and

(iii) is brought into use by the Indian company at any time during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 1995.

(7) The amount of deduction in the case of any hotel shall be—

(a) fifty per cent. of the profits and gains derived from the business of such hotel for a period of ten consecutive years beginning from the initial assessment year as is located in a hilly area or a rural area or a place of pilgrimage or such other place as the Central Government may, having regard to the need for development of infrastructure for tourism in any place and other relevant considerations, specify by notification in the Official Gazette and such hotel starts functioning at any time during the period beginning on the 1st day of April, 1990 and ending on the 31st day of March, 1994 or beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2001:

Provided that nothing contained in this clause shall apply to a hotel located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi or Mumbai, which has started or starts functioning on or after the 1st day of April, 1997 and before the 31st day of March, 2001:

Provided further that the said hotel is approved by the prescribed authority for the purpose of this clause in accordance with the rules made under this Act and where the said hotel is approved by the prescribed authority before the 31st day of March, 1992, shall be deemed to have been approved by the prescribed authority for the purpose of this section in relation to the assessment year commencing on the 1st day of April, 1991;

(b) thirty per cent. of the profits and gains derived from the business of such hotel as is located in any place other than those mentioned in sub-clause (a) for a period of ten consecutive years beginning from the initial assessment year if such hotel has started or starts functioning at any time during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 1995 or beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2001:

Provided that nothing contained in this clause shall apply to a hotel located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee, town area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi or Mumbai, which has started or starts functioning on or after the 1st day of April, 1997 and before the 31st day of March, 2001;

(c) the deduction under clause (a) or clause (b) shall be available only if—

(i) the business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of a building previously used as a hotel or of any machinery or plant previously used for any purpose;

(ii) the business of the hotel is owned and carried on by a company registered in India with a paid-up capital of not less than five hundred thousand rupees;

(iii) the hotel is for the time being approved by the prescribed authority:

Provided that any hotel approved by the prescribed authority before the 1st day of April, 1999 shall be deemed to have been approved under this sub-section.

(8) The amount of deduction in the case of any company carrying on scientific research and development shall be hundred per cent. of the profits and gains of such

business for a period of five assessment years beginning from the initial assessment year if such company—

(a) is registered in India;

(b) has the main object of scientific and industrial research and development;

(c) is for the time being approved by the prescribed authority at any time before the 1st day of April, 1999.

(9) The amount of deduction to an undertaking which begins commercial production or refining of mineral oil shall be hundred per cent. of the profits for a period of seven consecutive assessment years including the initial assessment year:

Provided that where the undertaking is located in North-Eastern Region, it has begun or begins commercial production of mineral oil before the 1st day of April, 1997 and where it is located in any part of India, it begins commercial production of mineral oil on or after the 1st day of April, 1997:

Provided further that where the undertaking is engaged in refining of mineral oil, it begins refining on or after the 1st day of October, 1998.

(10) The amount of profits in case of an undertaking developing and building housing projects approved by a local authority, shall be hundred per cent. of the profits derived in any previous year relevant to any assessment year from such housing project if,—

(a) such undertaking has commenced or commences development and construction of the housing project on or after the 1st day of October, 1998 and completes the same before the 31st day of March, 2001;

(b) the project is on the size of a plot of land which has a minimum area of one acre; and

(c) the residential unit has a maximum built-up area of one thousand square feet where such residential unit is situated within the cities of Delhi or Mumbai or within twenty-five kilometres from the municipal limits of these cities and one thousand and five hundred square feet at any other place.

(11) Notwithstanding anything contained in clause (iii) of sub-section (2) and sub-sections (3), (4) and (5), the amount of deduction in a case of industrial undertaking deriving profit from the business of setting-up and operating a cold chain facility for agricultural produce, shall be hundred per cent. of the profits and gains derived from such industrial undertaking for five assessment years beginning with the initial assessment year and thereafter, twenty-five per cent. (or thirty per cent. where the assessee is a company) of the profits and gains derived from the operation of such facility in a manner that the total period of deduction does not exceed ten consecutive assessment years (or twelve consecutive assessment years where the assessee is a co-operative society) and subject to fulfilment of the condition that it begins to operate such facility on or after the 1st day of April, 1999 but before the 31st day of March, 2003.

(12) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.

(13) The provisions contained in sub-section (5) and sub-sections (7) to (12) of section 80-IA shall, so far as may be, apply to the eligible business under this section.

(14) For the purposes of this section,—

(a) “cold chain facility” means a chain of facilities for storage or transportation of agricultural produce under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;

(b) “hilly area” means any area located at a height of one thousand metres or more above the sea level;

(c) “initial assessment year”—

(i) in the case of an industrial undertaking or cold storage plant or ship or hotel, means the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things, or to operate its cold storage plant or plants or the cold chain facility or the ship is first brought into use or the business of the hotel starts functioning;

(ii) in the case of a company carrying on scientific and industrial research and development, means the assessment year relevant to the previous year in which the company is approved by the prescribed authority for the purposes of sub-section (8);

(iii) in the case of an undertaking engaged in the business of commercial production or refining of mineral oil referred to in sub-section (9), means the assessment year relevant to the previous year in which the undertaking commences the commercial production or refining of mineral oil;

(d) “North-Eastern Region” means the region comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

(e) “place of pilgrimage” means a place where any temple, mosque, gurdwara, church or other place of public worship of renown throughout any State or States is situated;

(f) “rural area” means any area other than—

(i) an area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the preceding census of which relevant figures have been published before the first day of the previous year; or

(ii) an area within such distance not being more than fifteen kilometres from the local limits of any municipality or cantonment board referred to in sub-clause (i), as the Central Government may, having regard to the stage of development of such area including the extent of, and scope for, urbanisation of such area and other relevant considerations specify in this behalf by notification in the Official Gazette;

(g) “small-scale industrial undertaking” means an industrial undertaking which is, as on the last day of the previous year, regarded as a small-scale industrial undertaking under section 11B of the Industries (Development and Regulation) Act, 1951.

65 of 1951.

Amendment
of section
80JJA.

51. In section 80JJA of the Income-tax Act, with effect from the 1st day of April, 2000,—

(a) for the words “, producing bio-gas,” the words “or producing bio-fertilizers, bio-pesticides or other biological agents or for producing bio-gas or” shall be substituted;

(b) for the words "a deduction from such profits and gains of an amount equal to the whole of such income, or five lakh rupees, whichever is less", the words "a deduction of an amount equal to the whole of such profits and gains for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which such business commences" shall be substituted.

52. In section 80L of the Income-tax Act, in sub-section (I), with effect from the 1st day of April, 2000,—

Amendment
of section 80L.

(a) clauses (v) and (va) shall be omitted;

(b) in clause (x), the proviso shall be omitted;

(c) in the proviso, the words, brackets, figures and letter " , clause (v) or clause (va)" shall be omitted.

53. In section 80-O of the Income-tax Act, with effect from the 1st day of June, 1999,—

Amendment
of section 80-O.

(a) in the proviso, for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf", the words "within such further period as the competent authority may allow in this behalf" shall be substituted;

(b) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that no deduction under this section shall be allowed unless the assessee furnishes a certificate, in the prescribed form, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section."

(c) in the *Explanation*, after clause (iii), the following clause shall be inserted, namely:—

(iv) "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange."

54. In section 80R of the Income-tax Act, with effect from the 1st day of June, 1999,—

Amendment
of section 80R.

(a) for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf", the words "within such further period as the competent authority may allow in this behalf" shall be substituted;

(b) the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purposes of this section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange."

55. In section 80RR of the Income-tax Act, with effect from the 1st day of June, 1999,—

Amendment
of section
80RR.

(a) for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf", the words "within such further period as the competent authority may allow in this behalf" shall be substituted;

(b) at the end, the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of this section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange."

Amendment
of section
80RRA.

56. In section 80RRA of the Income-tax Act, with effect from the 1st day of June, 1999,—

(a) in sub-section (1), for the portion beginning with the words “where the Chief Commissioner” and ending with the words “may allow in this behalf”, the words “within such further period as the competent authority may allow in this behalf” shall be substituted;

(b) after sub-section (2), in the *Explanation*, after clause (c), the following clause shall be inserted, namely:—

‘(d) “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.’

Amendment
of section 112.

57. In section 112 of the Income-tax Act, in sub-section (1), the following shall be inserted at the end with effect from the 1st day of April, 2000, namely:—

‘Provided that where the tax payable in respect of any income arising from the transfer of a long-term capital asset, being listed securities, exceeds ten per cent. of the amount of capital gains before giving effect to the provisions of the second proviso to section 48, then, such excess shall be ignored for the purpose of computing the tax payable by the assessee.’

Explanation.—For the purposes of this sub-section, “listed securities” means the securities—

(a) as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956; and

(b) listed in any recognised stock exchange in India.’

32 of 1956.

Amendment of
section 115AC.

58. In section 115AC of the Income-tax Act, after sub-section (4), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:—

“(5) Where the assessee acquired shares or bonds in an amalgamated or resulting company by virtue of his holding shares or bonds in the amalgamating or demerged company, as the case may be, in accordance with the provisions of sub-section (1), the provisions of the said sub-section shall apply to such shares or bonds.”

Insertion of
new section
115ACA.

59. After section 115AC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2000, namely:—

Tax on income
from Global
Depository
Receipts
purchased in
foreign
currency or
capital gains
arising from
their transfer.

‘115ACA. (1) Where the total income of an assessee, being an individual, who is a resident and an employee of an Indian company engaged in information technology software and information technology services (hereafter in this section referred to as the resident employee), includes—

(a) income by way of dividends, other than dividends referred to in section 115-O, on Global Depository Receipts of an Indian company engaged in information technology software and information technology services, issued in accordance with such employees’ stock option scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf and purchased by him in foreign currency; or

(b) income by way of long-term capital gains arising from the transfer of Global Depository Receipts referred to in clause (a),

the income-tax payable shall be the aggregate of—

(i) the amount of income-tax calculated on the income by way of dividends, other than dividends referred to in section 115-O, in respect of Global Depository Receipts referred to in clause (a), if any, included in the total income, at the rate of ten per cent.;

(ii) the amount of income-tax calculated on the income by way of long-term capital gains referred to in clause (b), if any, at the rate of ten per cent.; and

(iii) the amount of income-tax with which the resident employee would have been chargeable had his total income been reduced by the amount of income referred to in clauses (a) and (b).

(2) Where the gross total income of the resident employee—

(a) consists only of income by way of dividends, other than dividends referred to in section 115-O, in respect of Global Depository Receipts referred to in clause (a) of sub-section (1), no deduction shall be allowed to him under any other provision of this Act;

(b) includes any income referred to in clause (a) or clause (b) of sub-section (1), the gross total income shall be reduced by the amount of such income and the deduction under any provision of this Act shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(3) Nothing contained in the first and second provisos to section 48 shall apply for the computation of long-term capital gains arising out of the transfer of long-term capital asset, being Global Depository Receipts referred to in clause (b) of sub-section (1).

Explanation.—For the purposes of this section,—

(a) "Global Depository Receipts" means any instrument in the form of a depository receipt or certificate (by whatever name called) created by the Overseas Depository Bank outside India and issued to non-resident investors against the issue of ordinary shares or Foreign Currency Convertible Bonds of issuing company;

(b) "information technology service" means any service which results from the use of any information technology software over a system of information technology products for realising value addition;

(c) "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form and capable of being manipulated or providing inter-activity to a user, by means of an automatic data processing machine falling under heading information technology products but does not include non-information technology products;

(d) "Overseas Depository Bank" means a bank authorised by the issuing company to issue Global Depository Receipts against issue of Foreign Currency Convertible Bonds or ordinary shares of the issuing company.

60. In section 115AD of the Income-tax Act, in sub-section (1), in clause (a), after the word "income", the words, figures and letter "other than income by way of dividends referred to in section 115-O" shall be inserted.

Amendment of section 115AD.

61. After Chapter XII-D of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of June, 1999, namely:—

Insertion of new Chapter XII-E.

'CHAPTER XII-E

SPECIAL PROVISIONS RELATING TO TAX ON DISTRIBUTED INCOME

115R. (1) Notwithstanding anything contained in any other provisions of this Act and section 32 of the Unit Trust of India Act, 1963, any amount of income distributed by the Unit Trust of India to its unit holders shall be chargeable to tax and the Unit Trust of India shall be liable to pay additional income-tax on such distributed income at the rate of ten per cent.:

Tax on distributed income to unit holders.

Provided that nothing contained in this sub-section shall apply in respect of any income distributed to a unit holder of open-ended equity oriented funds in respect of any distribution made from such fund for a period of three years commencing from the 1st day of April, 1999.

(2) Notwithstanding anything contained in any other provisions of this Act, any amount of income distributed by a Mutual Fund to its unit holders shall be chargeable to tax and such Mutual Fund shall be liable to pay additional income-tax, at the rate of ten per cent.:

Provided that nothing contained in this sub-section shall apply in respect of any income distributed to a unit holder of open-ended equity oriented funds in respect of any distribution made from such fund for a period of three years commencing from the 1st day of April, 1999.

(3) The person responsible for making payment of the income distributed by the Unit Trust of India or a Mutual Fund and the Unit Trust of India or the Mutual Fund, as the case may be, shall be liable to pay tax to the credit of the Central Government within fourteen days from the date of distribution or payment of such income, whichever is earlier.

(4) No deduction under any other provision of this Act shall be allowed to the Unit Trust of India or to a Mutual Fund in respect of the income which has been charged to tax under sub-section (1) or sub-section (2).

115S. Where the person responsible for making payment of the income distributed by the Unit Trust of India or a Mutual Fund and the Unit Trust of India or the Mutual Fund, as the case may be, fails to pay the whole or any part of the tax referred to in sub-section (1) or sub-section (2) of section 115R, within the time allowed under sub-section (3) of that section, he or it shall be liable to pay simple interest at the rate of two per cent. every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

115T. If any person responsible for making payment of the income distributed by the Unit Trust of India or a Mutual Fund and the Unit Trust of India or the Mutual Fund, as the case may be, does not pay tax, as is referred to in sub-section (1) or sub-section (2) of section 115R, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.

Explanation.—For the purposes of this Chapter,—

(a) "Mutual Fund" means a Mutual Fund specified under clause (23D) of section 10;

(b) "open-ended equity oriented fund" means—

(i) the Unit Scheme, 1964 made by the Unit Trust of India; and

(ii) such fund where the investible funds are invested by way of equity shares in domestic companies to the extent of more than fifty per cent. of the total proceeds of such fund;

Provided that the percentage of equity share holding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

(c) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963.

Interest payable for non-payment of tax.

Unit Trust of India or Mutual Fund to be assessee in default.

62. In section 139 of the Income-tax Act, with effect from the 1st day of June, 1999,—

Amendment
of section 139.

(a) in sub-section (1), in the first proviso, in clause (ii), for the words "motor vehicle", the words "motor vehicle other than a two-wheeled motor vehicle, whether having any detachable side car having extra wheel attached to such two-wheeled motor vehicle or not" shall be substituted;

(b) in sub-section (6), for the words "and value and belonging to him", the words "value and belonging to him, his bank account and credit card held by him" shall be substituted.

63. In section 140A of the Income-tax Act, with effect from the 1st day of June, 1999,—

Amendment
of section 140A.

(a) in sub-section (1), for the words and figures "or, as the case may be, section 148", the words, figures and letters "or section 148 or, as the case may be, section 158BC" shall be substituted;

(b) in sub-section (2),—

(i) after the word and figures "section 144", the words, figures and letters "or an assessment under section 158BC" shall be inserted;

(ii) after the words "regular assessment", the words "or assessment, as the case may be" shall be inserted.

64. In section 143 of the Income-tax Act, with effect from the 1st day of June, 1999,—

Amendment
of section 143.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142,—

(i) if any tax or interest is found due on the basis of such return, after adjustment of any tax deducted at source, any advance tax paid, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest, then, without prejudice to the provisions of sub-section (2), an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee and an intimation to this effect shall be sent to the assessee:

Provided that except as otherwise provided in this sub-section, the acknowledgment of the return shall be deemed to be an intimation under this sub-section where either no sum is payable by the assessee or no refund is due to him:

Provided further that no intimation under this sub-section shall be sent after the expiry of two years from the end of the assessment year in which the income was first assessable."

(b) sub-section (1A) shall be omitted;

(c) sub-section (1B) shall be omitted;

(d) sub-section (5) shall be omitted;

(e) the *Explanation* occurring at the end shall be omitted.

65. In section 154 of the Income-tax Act, in sub-section (1), for clause (b), the following clause shall be substituted with effect from the 1st day of June, 1999, namely:—

Amendment
of section 154.

"(b) amend any intimation or deemed intimation under sub-section (1) of section 143."

Amendment
of section 155.

66. In section 155 of the Income-tax Act, after sub-section (12), the following sub-section shall be inserted with effect from the 1st day of June, 1999, namely:—

“(13) Where in the assessment for any year, the deduction under section 80HBB or section 80HHC or section 80HHD or section 80HHE or section 80-O or section 80R or section 80RR or section 80RRA has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee with the approval of the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof has been or is received in, or brought into, India in the manner aforesaid, the Assessing Officer shall amend the order of assessment so as to allow deduction under section 80HBB or section 80HHC or section 80HHD or section 80HHE or section 80-O or section 80R or section 80RR or section 80RRA, as the case may be, in respect of such income or part thereof as is so received in, or brought into, India; and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which such income is so received in, or brought into, India.”

Amendment
of section 180.

67. In section 180 of the Income-tax Act, before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2000, namely:—

“Provided that nothing contained in this section shall apply in relation to the previous year relevant to the assessment year commencing on or after the 1st day of April, 2000.”

Amendment
of section 180A.

68. In section 180A of the Income-tax Act, for the words “during the previous year”, the words, figures and letters “during the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or earlier assessment years” shall be substituted with effect from the 1st day of April, 2000.

Amendment
of section 194A.

69. In section 194A of the Income-tax Act, in sub-section (3), with effect from the 1st day of April, 2000,—

(a) in clause (i), in the proviso, in clause (c), the words, brackets and figures “and which is for the time being approved by the Central Government for the purpose of clause (viii) of sub-section (1) of section 36” shall be omitted;

(b) clause (ii) shall be omitted.

Amendment
of section 194B.

70. In section 194B of the Income-tax Act, with effect from the 1st day of April, 2000,—

(a) the first proviso shall be omitted;

(b) in the second proviso, for the words “Provided further that”, the words “Provided that” shall be substituted.

Amendment
of section
194BB.

71. In section 194BB of the Income-tax Act, the proviso shall be omitted with effect from the 1st day of April, 2000.

Omission of
section 194H.

72. Section 194H of the Income-tax Act shall be omitted with effect from the 1st day of April, 2000.

Amendment
of section
194K.

73. In section 194K of the Income-tax Act, in sub-section (1), the following proviso shall be inserted with effect from the 1st day of June, 1999, namely:—

“Provided that no deduction shall be made under this sub-section from any such income credited or paid on or after the 1st day of June, 1999.”

74. After section 194K of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 1999, namely:—

Insertion of new section 194L.

"194L. Any person responsible for paying to a resident any sum being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any capital asset shall, at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent. of such sum as income-tax on income comprised therein:

Payment of compensation on acquisition of capital asset.

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed one hundred thousand rupees."

75. In section 196A of the Income-tax Act, in sub-section (1), the following proviso shall be inserted with effect from the 1st day of June, 1999, namely:—

Amendment of section 196A.

1 of 1956.

"Provided that no deduction shall be made under this sub-section from any such income credited or paid on or after the 1st day of June, 1999."

76. In section 197 of the Income-tax Act, in sub-section (1), after the figures and letter "194K", the figures and letter "194L" shall be inserted with effect from the 1st day of June, 1999.

Amendment of section 197.

77. In section 197A of the Income-tax Act, with effect from the 1st day of June, 1999,—

Amendment of section 197A.

(a) in sub-section (1), the words and figures "section 193 or", at both the places where they occur, shall be omitted;

(b) in sub-section (1A),—

(i) for the word, figures and letter "section 194A", at both the places where they occur, the words, figures and letter "section 193 or section 194A" shall be substituted;

(ii) for the words "either of", the words "any of" shall be substituted.

78. In sections 198, 199, 200, 202, 203, 203A, 204 and 205 of the Income-tax Act, after the word, figures and letter "section 194K," the word, figures and letter "section 194L," shall be inserted with effect from the 1st day of June, 1999.

Amendment of sections 198 to 200, 202 to 203A, 204 and 205.

79. In section 201 of the Income-tax Act, in sub-section (1A), for the word "fifteen", the word "eighteen" shall be substituted with effect from the 1st day of June, 1999.

Amendment of section 201.

80. In section 206C of the Income-tax Act, with effect from the 1st day of June, 1999,—

Amendment of section 206C.

(a) after sub-section (5A), the following sub-sections shall be inserted, namely:—

"(5B) Notwithstanding anything contained in any other law for the time being in force, a return filed on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media as may be specified by the Board (hereinafter referred to as the computer media) shall be deemed to be a return for the purposes of sub-section (5A) and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.

(5C) A return filed under sub-section (5B) shall fulfil the following conditions, namely:—

(a) while receiving returns on computer media, necessary checks by scanning the documents filed on computer media will be carried out and the media will be duly authenticated by the Assessing Officer; and

(b) the Assessing Officer shall also take due care to preserve the computer media by duplicating, transferring, mastering or storage without loss of data.”;

(b) after sub-section (8) and before the *Explanation*, the following sub-sections shall be inserted, namely:—

“(9) Where the Assessing Officer is satisfied that the total income of the buyer justifies the collection of the tax at any lower rate than the relevant rate specified in sub-section (1), the Assessing Officer shall, on an application made by the buyer in this behalf, give to him a certificate for collection of tax at such lower rate than the relevant rate specified in sub-section (1).

(10) Where a certificate under sub-section (9) is given, the person responsible for collecting the tax shall, until such certificate is cancelled by the Assessing Officer, collect the tax at the rates specified in such certificate.

(11) The Board may, having regard to the convenience of assesseees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (9) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.”.

Amendment
of section
234A.

81. In section 234A of the Income-tax Act, in sub-sections (1) and (3), for the words “two per cent.”, the words “one and one-half per cent.” shall be substituted with effect from the 1st day of June, 1999.

Amendment
of section
234B.

82. In section 234B of the Income-tax Act, in sub-sections (1) and (3), for the words “two per cent.”, the words “one and one-half per cent.” shall be substituted with effect from the 1st day of June, 1999.

Amendment
of section 249.

83. In section 249 of the Income-tax Act, in sub-section (1), after clause (iii), the following clause shall be inserted with effect from the 1st day of June, 1999, namely:—

“(iv) where the subject-matter of an appeal is not covered under clauses (i), (ii) and (iii), two hundred fifty rupees.”.

Amendment
of section 250.

84. In section 250 of the Income-tax Act, after sub-section (6), the following sub-section shall be inserted with effect from the 1st day of June, 1999, namely:—

“(6A) In every appeal, the Commissioner (Appeals), where it is possible, may hear and decide such appeal within a period of one year from the end of the financial year in which such appeal is filed before him under sub-section (1) of section 246A.”.

Amendment
of section 253.

85. In section 253 of the Income-tax Act, with effect from the 1st day of June, 1999,—

(a) in sub-section (1), in clause (c), for the words and figures “an order passed by a Commissioner under section 263”, the words, figures and letters “an order passed by a Commissioner under section 12AA or under section 263” shall be substituted;

(b) in sub-section (6), after clause (c), the following clause shall be inserted, namely:—

“(d) where the subject-matter of an appeal relates to any matter, other than those specified in clauses (a), (b) and (c), five hundred rupees.”.

Amendment
of section 254.

86. In section 254 of the Income-tax Act, with effect from the 1st day of June, 1999,—

(a) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) In every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within a period of four years from the end of the financial year in which such appeal is filed under sub-section (1) of section 253.

(2B) The cost of any appeal to the Appellate Tribunal shall be at the discretion of that Tribunal.”;

(b) in sub-section (4), for the word and figures “section 255”, the words, figures and letter “section 256 or section 260A” shall be substituted.

87. In section 260A of the Income-tax Act, with effect from the 1st day of June, 1999,—

Amendment
of section 260A

(a) in sub-section (2),—

(i) for the opening portion “An appeal under this sub-section shall be—”, the words “The Chief Commissioner or the Commissioner or an assessee aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—” shall be substituted;

(ii) in clause (a), for the words “communicated to the appellant”, the words “received by the assessee or the Chief Commissioner or Commissioner” shall be substituted;

(iii) clause (b) shall be omitted;

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

“(7) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.”.

5 of 1908.

88. In section 272A of the Income-tax Act, in sub-section (2), for the words “which shall not be less than one hundred rupees, but which may extend to two hundred rupees,” the words “of one hundred rupees” shall be substituted with effect from the 1st day of June, 1999.

Amendment
of section 272A.

89. The Tenth Schedule of the Income-tax Act shall be omitted with effect from the 1st day of April, 2000.

Omission of
Tenth Schedule.

90. The following amendments (being consequential in nature) shall be made in the Income-tax Act with effect from the 1st day of April, 2000, namely:—

Consequential
amendments.

(a) in section 10A, in sub-section (4), in clause (iii), after the word, figures and letters “section 80-IA”, the words, figures and letters “or section 80-IB” shall be inserted;

(b) in section 10B, in sub-section (4), in clause (iii), after the word, figures and letters “section 80-IA”, the words, figures and letters “or section 80-IB” shall be inserted;

(c) in section 80A, in sub-section (3), after the word, figures and letters “section 80-IA”, the words, figures and letters “or section 80-IB” shall be inserted;

(d) in section 88, in sub-section (2), in clause (xvi), in the *Explanation*, in clause (ii), for the words, brackets, letters and figures “clause (ca) of sub-section (12) of section 80-IA”, the words, brackets, figures and letters “the *Explanation* to sub-section (4) of section 80-IA” shall be substituted;

(e) in section 115JA,—

(i) in sub-section (2), in the *Explanation*,—

(A) in clause (v),—

(1) for the words, brackets, letters and figures “sub-clause (b) or sub-clause (c) of clause (iv) of sub-section (2) of section 80-IA”, the words, brackets, figures and letters “sub-section (4) and sub-section (5) of section 80-IB” shall be substituted;

(II) for the words, brackets, figures and letters "profits and gains under sub-section (5) of section 80-IA", the words, brackets, figures and letters "profits and gains under sub-section (4) or sub-section (5) of section 80-IB" shall be substituted;

(B) in clause (vi), for the words, brackets, figures and letters "under sub-section (12) of section 80-IA and subject to fulfilling the conditions laid down in sub-section (4A) of section 80-IA", the words, brackets, figures and letters "as defined in the *Explanation* to sub-section (4) of section 80-IA and subject to fulfilling the conditions laid down in that sub-section" shall be substituted.

Wealth-tax

Amendment
of section 2.

91. In section 2 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), in clause (ea), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted with effect from the 1st day of April, 2000, namely:—

27 of 1957.

'Explanation 2.—For the removal of doubts, it is hereby declared that "jewellery" does not include the Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government.'

Amendment
of section 16.

92. In section 16 of the Wealth-tax Act, with effect from the 1st day of June, 1999,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where a return has been made under section 14 or section 15 or in response to a notice under clause (i) of sub-section (4),—

(i) if any tax or interest is found due on the basis of such return, after adjustment of any amount paid by way of tax or interest, then, without prejudice to the provisions of sub-section (2), an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 30 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee and an intimation to this effect shall be sent to the assessee:

Provided that except as otherwise provided in this sub-section, the acknowledgment of the return shall be deemed to be an intimation under this sub-section where either no sum is payable by the assessee or no refund is due to him:

Provided further that no intimation under this sub-section shall be sent after the expiry of two years from the end of the assessment year in which the net wealth was first assessable."

(b) sub-section (1A) shall be omitted;

(c) sub-section (1B) shall be omitted;

(d) sub-section (7) shall be omitted;

(e) the *Explanation* occurring at the end shall be omitted.

Amendment
of section 23A.

93. In section 23A of the Wealth-tax Act, after sub-section (8), the following sub-section shall be inserted with effect from the 1st day of June, 1999, namely:—

"(8A) In every appeal, the Commissioner (Appeals), where it is possible, may hear and decide such appeal within a period of one year from the end of the financial year in which such appeal is filed under sub-section (1)."

94. In section 24 of the Wealth-tax Act, with effect from the 1st day of June, 1999,—

Amendment
of section 24.

(a) in sub-section (4), the following proviso shall be inserted at the end, namely:—

"Provided that in the case of an appeal not releasable to net wealth as computed by the Assessing Officer, the appeal shall be accompanied by a fee of five hundred rupees.";

(b) after sub-section (5), the following sub-sections shall be inserted, namely:—

"(5A) In every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within a period of four years from the end of the financial year in which such appeal is filed under sub-section (1).

(5B) The cost of any appeal to the Appellate Tribunal shall be at the discretion of that Tribunal.";

(c) in sub-section (10), after the word and figures "section 27", the words, figures and letter "or section 27A" shall be inserted.

95. In section 27 of the Wealth-tax Act, in sub-section (1), after the words "notice of an order", the words, figures and letters "passed before the 1st day of June, 1999" shall be inserted with effect from the 1st day of June, 1999.

Amendment
of section 27.

96. In section 27A of the Wealth-tax Act, with effect from the 1st day of June, 1999,—

Amendment
of section 27A.

(a) in sub-section (3), the words ", and, where the appeal is made by the assessee, shall be accompanied by a fee of five thousand rupees" shall be omitted;

(b) after sub-section (7), the following sub-section shall be inserted, namely:—

"(8) The provisions of the Code of Civil Procedure, 1908 relating to appeals to High Court shall, so far as may be, apply in the case of appeals under this section."

5 of 1908.

97. In section 35 of the Wealth-tax Act, in sub-section (1), for clause (aa), the following clause shall be substituted with effect from the 1st day of June, 1999, namely:—

Amendment
of section 35.

"(aa) a wealth-tax authority may amend any intimation or deemed intimation under sub-section (1) of section 16;"

Expenditure-tax

35 of 1987.

98. In the Expenditure-tax Act, 1987 (hereinafter referred to as the Expenditure-tax Act), in section 4, in clause (a), with effect from the 1st day of April, 2000,—

Amendment
of section 4.

(a) in the first proviso, for the words, brackets, figures and letters "clause (ii) of sub-section (5) of section 80-IA", the words, brackets, letters and figures "clause (a) of sub-section (7) of section 80-IB" shall be substituted;

(b) in the second proviso, for the words, letters, brackets and figures "clause (iia) of sub-section (5) of section 80-IA", the words, brackets, figures and letters "clause (a) of sub-section (7) of section 80-IB" shall be substituted.

99. In section 22 of the Expenditure-tax Act, after sub-section (4), the following sub-section shall be inserted with effect from the 1st day of June, 1999, namely:—

Amendment
of section 22.

"(4A) In every appeal, the Commissioner (Appeals), where it is possible, may hear and determine such appeal within a period of one year from the end of the financial year in which such appeal is filed under sub-section (1)."

CHAPTER IV

INDIRECT TAXES

Customs

Substitution of
new authorities.

100. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), save as otherwise expressly provided, and unless the context otherwise requires, the reference to any authority specified in column 1 of the Table below shall be substituted by reference to the authority or authorities specified in the corresponding entry in column 2 of the said Table and such consequential changes as the rules of grammar may require shall also be made:

52 of 1962.

TABLE

1	2
1. Assistant Commissioner of Customs	Assistant Commissioner of Customs or Deputy Commissioner of Customs
2. Deputy Commissioner of Customs	Joint Commissioner of Customs

Amendment
of section 3.

101. In section 3 of the Customs Act, after clause (c), the following clause shall be inserted, namely:—

“(cc) Joint Commissioners of Customs;”.

Amendment
of section 25.

102. In section 25 of the Customs Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from payment of duty, for reasons to be stated in such order, any goods, of strategic or secret nature, or for charitable purpose, on which duty is leviable.”.

Insertion of new
Chapter VB.

103. After Chapter VA of the Customs Act, the following Chapter shall be inserted, namely:—

'CHAPTER VB

ADVANCE RULINGS

Definitions.

28E. In this Chapter, unless the context otherwise requires,—

(a) “activity” means import or export;

(b) “advance ruling” means the determination, by the Authority, of a question of law or fact specified in the application regarding the liability to pay duty in relation to an activity which is proposed to be undertaken, by the applicant;

(c) “applicant” means a non-resident setting up a joint venture in India in collaboration with a non-resident or resident, or a resident setting up a joint venture in India in collaboration with a non-resident, making application;

(d) “application” means an application made to the Authority under sub-section (1) of section 28H;

(e) “Authority” means the Authority for Advance Rulings constituted under section 28F;

(f) “Chairperson” means the Chairperson of the Authority;

(g) “Member,” means a Member of the Authority and includes the Chairperson; and

43 of 1961.

(h) "non-resident" shall have the meaning assigned to it in clause (30) of section 2 of the Income-tax Act, 1961.

28F. (1) The Central Government shall, by notification in the Official Gazette, constitute an Authority for giving advance rulings, to be called as "the Authority for Advance Rulings".

Authority for
Advance
Rulings.

(2) The Authority shall consist of the following Members appointed by the Central Government, namely:—

- (a) a Chairperson, who is a retired Judge of the Supreme Court;
- (b) an officer of the Indian Customs and Central Excise Service who is qualified to be a Member of the Board;
- (c) an officer of the Indian Legal Service who is, or is qualified to be, an Additional Secretary to the Government of India.

(3) The salaries and allowances payable to, and the terms and conditions of service of, the Members shall be such as the Central Government may by rules determine.

(4) The Central Government shall provide the Authority with such officers and staff as may be necessary for the efficient exercise of the powers of the Authority under this Act.

(5) The office of the Authority shall be located in Delhi.

28G. No proceeding before, or pronouncement of advance ruling by, the Authority under this Chapter shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

Vacancies, etc.,
not to
invalidate
proceedings.

28H. (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

Application for
advance ruling.

(2) The question on which the advance ruling is sought shall be in respect of,—

- (a) classification of goods under the Customs Tariff Act, 1975;
- (b) applicability of a notification issued under sub-section (1) of section 25, having a bearing on the rate of duty;
- (c) the principles to be adopted for the purposes of determination of value of the goods under the provisions of this Act.

(3) The application shall be made in quadruplicate and be accompanied by a fee of two thousand five hundred rupees.

(4) An applicant may withdraw his application within thirty days from the date of the application.

28-I. (1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Commissioner of Customs and, if necessary, call upon him to furnish the relevant records:

Procedure on
receipt of
application.

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Commissioner of Customs.

(2) The Authority may, after examining the application and the records called for, by order, either allow or reject the application:

Provided that the Authority shall not allow the application except in the case of a resident applicant where the question raised in the application is—

(a) already pending in the applicant's case before any officer of customs, the Appellate Tribunal or any Court;

(b) the same as in a matter already decided by the Appellate Tribunal or any Court:

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Commissioner of Customs.

(4) Where an application is allowed under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.

(5) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

Explanation.—For the purposes of this sub-section, "authorised representative" shall have the meaning assigned to it in sub-section (2) of section 146A.

(6) The Authority shall pronounce its advance ruling in writing within ninety days of the receipt of application.

(7) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Commissioner of Customs, as soon as may be, after such pronouncement.

Applicability
of advance
ruling.

28J. (1) The advance ruling pronounced by the Authority under section 28-I shall be binding only—

(a) on the applicant who had sought it;

(b) in respect of any matter referred to in sub-section (2) of section 28H;

(c) on the Commissioner of Customs, and the customs authorities subordinate to him, in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

Advance ruling
to be void in
certain
circumstances.

28K. (1) Where the Authority finds, on a representation made to it by the Commissioner of Customs or otherwise, that an advance ruling pronounced by it under sub-section (6) of section 28-I has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant and the Commissioner of Customs.

Powers of
Authority.

28L. (1) The Authority shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908.

2 of 1974.

45 of 1960.

(2) The Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code.

28M. The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.

Proceeding of Authority.

104. In section 30 of the Customs Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 30.

“(1) The person-in-charge of a vessel or an aircraft carrying imported goods shall, deliver to the proper officer, an import manifest, and in the case of a vehicle, an import report, within twenty-four hours after arrival thereof at a customs station in the case of a vessel and twelve hours after arrival in the case of an aircraft or a vehicle, in the prescribed form:

Provided that,—

(a) in the case of a vessel or an aircraft, any such manifest may be delivered to the proper officer before the arrival of the vessel or aircraft;

(b) if the proper officer is satisfied that there was sufficient cause for not delivering the import manifest or import report or any part thereof within the time specified in this sub-section, he may accept it at any time thereafter.”

105. In section 47 of the Customs Act, in sub-section (2), for the words “within seven days”, the words “within two days, excluding holidays,” shall be substituted.

Amendment of section 47.

106. In section 54 of the Customs Act, in sub-section (1), the following proviso shall be inserted, namely:—

Amendment of section 54.

“Provided that where the goods are being transhipped under an international treaty or bilateral agreement between the Government of India and Government of a foreign country, a declaration for transhipment instead of a bill of transhipment shall be presented to the proper officer in the prescribed form.”

107. In section 61 of the Customs Act, in sub-section (2), for the opening paragraph, the following shall be substituted, namely:—

Amendment of section 61.

“Where any warehoused goods—

(i) specified in sub-clause (a) of sub-section (1), remain in a warehouse beyond the period specified in that sub-section by reason of extension of the aforesaid period or otherwise, interest at such rate as is specified in section 47 shall be payable, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of section 15 on the warehoused goods, for the period from the expiry of the said warehousing period till the date of payment of duty on the warehoused goods;

(ii) specified in sub-clause (b) of sub-section (1), remain in a warehouse beyond a period of six months, interest shall be payable at such rate or rates not exceeding the rate specified in section 47, as may be fixed by the Board, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of section 15 on the warehoused goods, for the period from the expiry of the said six months till the date of payment of duty on the warehoused goods.”

108. In section 111 of the Customs Act, in clause (n), for the words “in respect thereof,” the words, brackets and figures “in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54;” shall be substituted.

Amendment of section 111.

Amendment of
section 117.

109. In section 117 of the Customs Act, for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

Amendment of
section 129DD.

110. In section 129DD of the Customs Act,—

(a) in sub-section (1), before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided that the Central Government may in its discretion, refuse to admit an application in respect of an order where the amount of duty or fine or penalty, determined by such order does not exceed five thousand rupees."

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Commissioner of Customs may, if he is of the opinion that an order passed by the Commissioner (Appeals) under section 128A is not legal or proper, direct the proper officer to make an application on his behalf to the Central Government for revision of such order."

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) An application under sub-section (1) shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall be accompanied by a fee of,—

(a) two hundred rupees, where the amount of duty and interest demanded, fine or penalty levied by an officer of customs in the case to which the application relates is one lakh rupees or less;

(b) one thousand rupees, where the amount of duty and interest demanded, fine or penalty levied by an officer of customs in the case to which the application relates is more than one lakh rupees;

Provided that no such fee shall be payable in the case of an application referred to in sub-section (1A)."

Amendment of
section 130.

111. In section 130 of the Customs Act, in sub-section (1), after the words, figures and letter "an order under section 129B", the words, figures and letters "passed before the 1st day of July, 1999" shall be inserted.

Substitution of
new section for
section 130A.

Application to
High Court.

112. For section 130A of the Customs Act, the following section shall be substituted, namely:—

"130A. (1) The Commissioner of Customs or the other party may, within one hundred and eighty days of the date upon which he is served with notice of an order under section 129B passed on or after the 1st day of July, 1999 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment), by application in the prescribed form, accompanied, where the application is made by the other party, by a fee of two hundred rupees, apply to the High Court to direct the Appellate Tribunal to refer to the High Court any question of law arising from such order of the Tribunal.

(2) The Commissioner of Customs or the other party applying to the High Court under sub-section (1) shall clearly state the question of law which he seeks to be referred to the High Court and shall also specify the paragraph in the order of the Appellate Tribunal relevant to the question sought to be referred.

(3) On receipt of notice that an application has been made under sub-section (1), the person against whom such application has been made, may, notwithstanding that he may not have filed such application, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in the prescribed manner against

any part of the order in relation to which an application for reference has been made and such memorandum shall be disposed of by the High Court as if it were an application presented within the time specified in sub-section (1).

(4) If, on an application made under sub-section (1), the High Court directs the Appellate Tribunal to refer the question of law raised in the application, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such direction, draw up a statement of the case and refer it to the High Court."

113. In section 130C of the Customs Act, in sub-section (1), for the words and figures "under section 130", the words, figures and letter "under section 130 or section 130A" shall be substituted.

Amendment of section 130C.

114. In section 130E of the Customs Act, for the words and figures "under section 130", the words, figures and letter "under section 130 or section 130A" shall be substituted.

Amendment of section 130E.

115. In section 157 of the Customs Act, in sub-section (2), in clause (a), for the words "bill of transshipment", the words "bill of transshipment, declaration for transshipment" shall be substituted.

Amendment of section 157.

116. (1) In the case of goods specified in the Second Schedule, being goods imported into India, there shall be levied and collected as an additional duty of customs an amount calculated at the rate set forth in the said Schedule.

Additional duty of customs (high speed diesel oil).

(2) The additional duty of customs referred to in sub-section (1), shall be in addition to any other duties of customs chargeable on such goods under the Customs Act, or any other law for the time being in force.

(3) The provisions of the Customs Act, and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the additional duty of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

117. The Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), shall be amended in the manner specified in the Third Schedule.

Amendment of Act 51 of 1975.

118. (1) In the case of goods mentioned in the First Schedule to the Customs Tariff Act, or in that Schedule, as amended from time to time, there shall be levied and collected as surcharge of customs, an amount, equal to ten per cent. of the duty chargeable on such goods calculated at the rate specified in the said First Schedule, read with any notification for the time being in force, issued by the Central Government in relation to the duty so chargeable.

Surcharge of customs.

10 of 1897.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 2000, and upon such cesser, section 6 of the General Clauses Act, 1897 shall apply as if the said sub-section had been repealed by a Central Act.

(3) The surcharge of customs referred to in sub-section (1) shall be in addition to any duties of customs chargeable on such goods under the Customs Act or any other law for the time being in force.

(4) The provisions of the Customs Act and the rules and regulations made thereunder, including those relating to refunds, drawbacks and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of surcharge of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

Excise

Substitution of
new
authorities.

119. In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act),—

(a) save as otherwise expressly provided, and unless the context otherwise requires, the reference to any authority specified in column 1 of the Table below shall be substituted by reference to the authority or authorities specified in the corresponding entry in column 2 of the said Table and such consequential changes as the rules of grammar may require shall also be made:

TABLE

1	2
1. Assistant Commissioner of Central Excise	Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise
2. Deputy Commissioner of Central Excise	Joint Commissioner of Central Excise

(b) for the words "the Schedule", wherever they occur [other than in sub-clause (ii) of clause (f) of section 2], the words "the First Schedule and the Second Schedule" shall be substituted;

(c) references to the expressions "duty", "duties", "duty of excise" and "duties of excise" shall, save as otherwise expressly provided in this Act and unless the context otherwise requires, be construed to include a reference to the special duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985.

5 of 1986.

Amendment of
section 2.

120. In section 2 of the Central Excise Act,—

(i) in clause (b), after the words "Additional Commissioner of Central Excise", the words "Joint Commissioner of Central Excise," shall be inserted;

(ii) in clause (f), in sub-clause (ii), for the words "the Schedule", the words "the First Schedule" shall be substituted.

Amendment of
section 3.

121. In section 3 of the Central Excise Act, in sub-section (1), for the opening paragraph, the following shall be substituted, namely:—

"There shall be levied and collected in such manner as may be prescribed,—

(a) a duty of excise on all excisable goods which are produced or manufactured in India as, and at the rates, set forth in the First Schedule to the Central Excise Tariff Act, 1985;

5 of 1986.

(b) a special duty of excise, in addition to the duty of excise specified in clause (a) above, on excisable goods specified in the Second Schedule to the Central Excise Tariff Act, 1985 which are produced or manufactured in India, as, and at the rates set forth in the said Second Schedule."

5 of 1986.

Amendment of
section 4A.

122. In section 4A of the Central Excise Act, after sub-section (3) and before *Explanation 1*, the following sub-section shall be inserted, namely:—

"(4) If any manufacturer removes from the place of manufacture any excisable goods specified under sub-section (1) without declaring the retail sale price of such goods on the packages, or declares a retail sale price which does not constitute the sole consideration for such sale, or tampers with, obliterates or alters any such declaration made on the packages after removal, such goods shall be liable to confiscation."

Amendment of
section 5A.

123. In section 5A of the Central Excise Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from payment of duty, for

reasons to be stated in such order, any excisable goods of strategic or secret nature, or for charitable purpose, on which duty is leviable.

124. After Chapter III of the Central Excise Act, the following Chapter shall be inserted, namely:—

Insertion of new Chapter IIIA.

CHAPTER IIIA

ADVANCE RULINGS

23A. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) "activity" means production or manufacture of goods;

(b) "advance ruling" means the determination, by the authority of a question of law or fact specified in the application regarding the liability to pay duty in relation to an activity proposed to be undertaken, by the applicant;

(c) "applicant" means a non-resident setting up a joint venture in India in collaboration with a non-resident or resident, or a resident setting up a joint venture in India in collaboration with a non-resident, making application;

(d) "application" means an application made to the Authority under sub-section (1) of section 23C;

52 of 1962.

(e) "Authority" means the Authority for Advance Rulings constituted under section 28F of the Customs Act, 1962;

43 of 1961.

(f) "non-resident" shall have the meaning assigned to it in clause (30) of section 2 of the Income-tax Act, 1961.

23B. No proceeding before, or pronouncement of advance ruling by, the Authority under this Chapter shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

Vacancies, etc., not to invalidate proceedings.

23C. (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

Application for advance ruling.

(2) The question on which the advance ruling is sought shall be in respect of,—

5 of 1986.

(a) classification of any goods under the Central Excise Tariff Act, 1985;

(b) applicability of a notification issued under sub-section (1) of section 5A having a bearing on the rate of duty;

(c) the principles to be adopted for the purposes of determination of value of the goods under the provisions of this Act.

(3) The application shall be made in quadruplicate and be accompanied by a fee of two thousand five hundred rupees.

(4) An applicant may withdraw an application within thirty days from the date of the application.

23D. (1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Commissioner of Central Excise and, if necessary, call upon him to furnish the relevant records:

Procedure on receipt of application.

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Commissioner of Central Excise.

(2) The Authority may, after examining the application and the records called for, by order, either allow or reject the application:

Provided that the Authority shall not allow the application except in the case of a resident applicant where the question raised in the application is,—

(a) already pending in the applicant's case before any Central Excise Officer, the Appellate Tribunal or any Court;

(b) the same as in a matter already decided by the Appellate Tribunal or any Court:

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Commissioner of Central Excise.

(4) Where an application is allowed under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.

(5) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

Explanation.—For the purposes of this sub-section, "authorised representative" shall have the meaning assigned to it in sub-section (2) of section 35Q.

(6) The Authority shall pronounce its advance ruling in writing within ninety days of the receipt of application.

(7) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Commissioner of Central Excise, as soon as may be, after such pronouncement.

23E. (1) The advance ruling pronounced by the Authority under section 23D shall be binding only—

(a) on the applicant who had sought it;

(b) in respect of any matter referred to in sub-section (2) of section 23C;

(c) on the Commissioner of Central Excise, and the Central Excise authorities subordinate to him, in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

23F. (1) Where the Authority finds, on a representation made to it by the Commissioner of Central Excise or otherwise, that an advance ruling pronounced by it under sub-section (6) of section 23E has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant and the Commissioner of Central Excise.

Applicability
of advance
ruling.

Advance ruling
to be void in
certain
circumstances

5 of 1908.

23G. (J) The Authority shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908.

Powers of Authority.

2 of 1974.

(2) The Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code.

45 of 1860.

23H. The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.

Procedure of Authority.

125. In section 33 of the Central Excise Act, in the opening paragraph, for the words "Where by the rules made under this Act", the words "Where under this Act or by the rules made thereunder" shall be substituted.

Amendment of section 33.

126. In section 35EE of the Central Excise Act,—

Amendment of section 35EE.

(a) in sub-section (J), before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided that the Central Government may in its discretion, refuse to admit an application in respect of an order where the amount of duty or fine or penalty, determined by such order does not exceed five thousand rupees."

(b) after sub-section (J), the following sub-section shall be inserted, namely:—

"(JA) The Commissioner of Central Excise may, if he is of the opinion that an order passed by the Commissioner (Appeals) under section 35A is not legal or proper, direct the proper officer to make an application on his behalf to the Central Government for revision of such order."

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) An application under sub-section (J) shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall be accompanied by a fee of,—

(a) two hundred rupees, where the amount of duty and interest demanded, fine or penalty levied by any Central Excise Officer in the case to which the application relates is one lakh rupees or less;

(b) one thousand rupees, where the amount of duty and interest demanded, fine or penalty levied by any Central Excise Officer in the case to which the application relates is more than one lakh rupees:

Provided that no such fee shall be payable in the case of an application referred to in sub-section (JA)."

127. In section 35G of the Central Excise Act, in sub-section (J), after the words, figures and letter "an order under section 35C", the words, figures and letters "passed before the 1st day of July, 1999" shall be inserted.

Amendment of section 35G.

128. For section 35H of the Central Excise Act, the following section shall be substituted, namely:—

Substitution of new section for section 35H.

"35H. (J) The Commissioner of Central Excise or the other party may, within one hundred and eighty days of the date upon which he is served with notice of an order under section 35C passed on or after the 1st day of July, 1999 (not being an order

Application to High Court.

relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment), by application in the prescribed form, accompanied, where the application is made by the other party, by a fee of two hundred rupees, apply to the High Court to direct the Appellate Tribunal to refer to the High Court any question of law arising from such order of the Tribunal.

(2) The Commissioner of Central Excise or the other party applying to the High Court under sub-section (1) shall clearly state the question of law which he seeks to be referred to the High Court and shall also specify the paragraph in the order of the Appellate Tribunal relevant to the question sought to be referred.

(3) On receipt of notice that an application has been made under sub-section (1), the person against whom such application has been made, may, notwithstanding that he may not have filed such application, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in the prescribed manner against any part of the order in relation to which an application for reference has been made and such memorandum shall be disposed of by the High Court as if it were an application presented within the time specified in sub-section (1).

(4) If, on an application made under sub-section (1), the High Court directs the Appellate Tribunal to refer the question of law raised in the application, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such direction, draw up a statement of the case and refer it to the High Court."

Amendment
of section 35J.

129. In section 35J of the Central Excise Act, in sub-section (1), for the words, figures and letter "under section 35G," the words, figures and letters "under section 35G or section 35H," shall be substituted.

Amendment
of section 35L.

130. In section 35L of the Central Excise Act, for the words, figures and letter "under section 35G", the words, figures and letters "under section 35G or section 35H" shall be substituted.

Amendment
of section 37.

131. In section 37 of the Central Excise Act, in sub-section (2),—

(a) after clause (ib), the following clause shall be inserted, namely:—

"(ibb) provide for charging or payment of interest on the differential amount of duty which becomes payable or refundable upon finalisation of all or any class of provisional assessments;"

(b) after sub-clause (xxvii), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 16th day of March, 1995, namely:—

"(xxviii) provide for the lapsing of credit of duty lying unutilised with the manufacturer of specified excisable goods on an appointed date and also for not allowing such credit to be utilised for payment of any kind of duty on any excisable goods on and from such date."

Validation of
certain rules.

132. (1) In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred under section 37 of the Central Excise Act, in rule 57F,—

(a) sub-rule (4A), as inserted by the Central Excise (Fourth Amendment) Rules, 1995, shall be deemed to have and to have always had effect from the 16th day of March, 1995;

(b) sub-rule (17), as inserted by the Central Excise (Amendment) Rules, 1997, shall be deemed to have and to have always had effect from the 1st day of March, 1997;

(c) clauses (c) and (d) of sub-rule (17), as inserted by the Central Excise (Seventh Amendment) Rules, 1997, shall be deemed to have and to have always had effect from the 1st day of August, 1997;

(d) clause (e) of sub-rule (17), as inserted by the Central Excise (Eleventh Amendment) Rules, 1997, shall be deemed to have and to have always had effect from the 1st day of October, 1997.

(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing from the 16th day of March, 1995 and ending with the day the Finance Act, 1999 receives the assent of the President (hereinafter referred to as the said period) under the Central Excise Act or any rules made thereunder in relation to the lapsing of credit of duty lying unutilised with the manufacturer of specified excisable goods and also for not allowing such credit to be utilised for payment of any kind of duty on any excisable goods shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done as if the amendments made by sub-section (1) had been in force at all material times and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) the lapsing of credit of duty lying unutilised with the manufacturer of specified excisable goods and also for not allowing such credit to be utilised for payment of any kind of duty on any excisable goods, during the said period shall be deemed to always have been, as validly lapsed, as if the amendments made by sub-section (1) had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court for allowing the credit of, and no enforcement shall be made by any court of any decree or order allowing the credit of duty which has been lapsed and not allowed to be utilised and which would have been validly lapsed and not allowed to be utilised if the amendments made by sub-section (1) had been in force at all material times;

(c) recovery shall be made of all the credit of duty, which have not been lapsed or, as the case may be, which have been taken or utilised but which would have been lapsed, or as the case may be, would not have been allowed to be taken or utilised, if the amendments made by sub-section (1) had been in force at all material times, within a period of thirty days from the day, the Finance Act, 1999 receives the assent of the President and in the event of non-payment of such credit of duties within this period, in addition to the amount of credit of such duties recoverable, interest at the rate of thirty-six per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

133. (1) In the case of goods specified in the Second Schedule, being goods manufactured in India, there shall be levied and collected as an additional duty of excise an amount calculated at the rate set forth in the said Schedule.

Additional duty
of excise (high
speed diesel oil).

(2) The additional duty of excise referred to in sub-section (1), shall be in addition to any other duties of excise chargeable on such goods under the Central Excise Act, or any other law for the time being in force.

(3) The provisions of the Central Excise Act and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the additional duty of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.

(4) The additional duty of excise leviable under sub-section (1), shall be for the purposes of the Union and the proceeds thereof shall not be distributed among the States.

Amendment of
Act 5 of 1986.

134. (1) In the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act),—

(a) in sections 2 and 3, for the words "the Schedule", wherever they occur, the words "the First Schedule and the Second Schedule" shall be substituted;

(b) the Schedule shall be re-numbered as the First Schedule and,—

(i) in the First Schedule as so re-numbered,—

(A) for the heading "THE SCHEDULE.—EXCISE TARIFF", the heading "THE FIRST SCHEDULE" shall be substituted;

(B) for the word "Schedule" wherever it occurs, the words "First Schedule" shall be substituted;

(ii) the First Schedule as so re-numbered shall be further amended in the manner specified in the Fourth Schedule;

(iii) after the First Schedule as so re-numbered, the Schedule specified in the Fifth Schedule shall be inserted.

(2) Any reference to the Schedule to the Central Excise Tariff Act in any Central Act, or rules and regulations made or the notifications issued thereunder shall, save as otherwise expressly provided and unless the context otherwise requires, be construed as a reference to the First Schedule and the Second Schedule to the Central Excise Tariff Act.

Amendment of
Act 58 of 1957.

135. The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act) shall be amended in the manner specified in the Sixth Schedule.

CHAPTER V

MISCELLANEOUS

Amendment of
Act 6 of 1898.

136. In the Indian Post Office Act, 1898, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the First Schedule, the following Schedule shall be substituted, namely:—

"THE FIRST SCHEDULE

(See section 7)

INLAND POSTAGE RATES

Letters

For a weight not exceeding twenty grams Rs. 3.00

For every twenty grams, or fraction thereof,
exceeding twenty grams Rs. 3.00.

Letter-cards

For a letter-card Rs. 2.00.

Post cards

Post cards (not being post cards containing printed
communication or competition post cards)

Single 25 paise

Reply 50 paise.

Printed post cards

*Post cards containing printed communication
(not being competition post cards)*

For a post card

Rs. 2.00.

Explanation.—A post card shall be deemed to contain a printed communication, if any matter (except the name and address of, and other particulars relating to, the sender and the place and date of despatch) is recorded by printing or by cyclostyling or by any other mechanical process, not being typewriting, on any part of the post card except the right hand half of the address-side thereof.

Competition post cards

For a post card

Rs. 4.00.

Explanation.—A post card shall be deemed to be a competition post card if it is used in response to any competition organised on or through television, radio, newspaper, magazine or any other media.

Book pattern and sample packets

For the first fifty grams or fraction thereof

Rs. 2.00

For every additional fifty grams, or fraction thereof, in excess of fifty grams

Rs. 3.00.

Registered newspapers

For a weight not exceeding fifty grams

15 paise

For a weight exceeding fifty grams but not exceeding one hundred grams

25 paise

For every additional one hundred grams, or fraction thereof, exceeding one hundred grams

10 paise.

In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—

For a weight not exceeding one hundred grams

25 paise

For every additional one hundred grams, or fraction thereof, exceeding one hundred grams

10 paise:

Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the Post Office.

Parcels

For a weight not exceeding five hundred grams

Rs. 12.00

For every five hundred grams, or fraction thereof, exceeding five hundred grams

Rs. 15.00."

137. In the Indian Stamp Act, 1899, in section 3A, after clause (e), the following clause shall be inserted, namely:—

Amendment of
section 3A of
Act 2 of 1899.

1 of 1956.

"(f) transfer of beneficial ownership of debentures, such debentures being debentures of a company formed and registered under the Companies Act, 1956 or a body corporate established by a Central Act, dealt with by a depository, shall not be liable to duty under article 27 of Schedule I of this Act."

Amendment of
Act 32 of 1994.

138. In the Finance Act, 1994,—

(a) in section 71, in sub-section (1), after the words and figures "under section 70", the words "after obtaining a written permission from the Commissioner of Central Excise," shall be inserted;

(b) in section 73, the following *Explanation* shall be inserted at the end, namely:—

"*Explanation*.—Where the service of the notice is stayed by an order of a court, the period of such stay shall be excluded in computing the aforesaid period of five years or six months, as the case may be.";

(c) in section 77, for the words "pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every week or part thereof during which such failure continues", the words "be liable to a penalty which may extend to an amount not exceeding two thousand rupees" shall be substituted.

Amendment of
section 76 of
Act 21 of 1998.

139. In section 76 of the Finance (No. 2) Act, 1998, in sub-section (1), after the word and figures "sections 23," the figures and letter "23A," shall be inserted with effect from the 1st day of June, 1999.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 50,000 | Nil; |
| (2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000 | 10 per cent. of the amount by which the total income exceeds Rs. 50,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 19,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company 35 per cent. of the total income;

II. In the case of a company other than a domestic company,—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

48 per cent.

PART II**RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES**

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	Rate of income-tax
I. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on income by way of insurance commission	10 per cent.;

(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities other than a security of the Central or State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and any rules made thereunder	
(vi) on any other income	20 per cent.;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on any investment income	20 per cent.;
(B) on income by way of long-term capital gains referred to in section 115E	10 per cent.;
(C) on other income by way of long-term capital gains	20 per cent.;
(D) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(E) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(F) on income by way of winnings from horse races	40 per cent.;
(G) on the whole of the other income	30 per cent.;
(ii) in the case of any other person—	
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(B) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(C) on income by way of winnings from horse races	40 per cent.;
(D) on income by way of long-term capital gains	20 per cent.;
(E) on the whole of the other income	30 per cent.;
2. In the case of a company—	
(a) where the company is a domestic company—	
(i) on income by way of interest other than "Interest on securities"	20 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on any other income	20 per cent.;
(b) where the company is not a domestic company—	
(i) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(ii) on income by way of winnings from horse races	40 per cent.;
(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the	

Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—

(A) where the agreement is made before the 1st day of June, 1997

30 per cent.;

(B) where the agreement is made on or after the 1st day of June, 1997

20 per cent.;

(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976

50 per cent.;

(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997

30 per cent.;

(C) where the agreement is made on or after the 1st day of June, 1997

20 per cent.;

(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976

50 per cent.;

(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997

30 per cent.;

(C) where the agreement is made on or after the 1st day of June, 1997

20 per cent.;

(vii) on income by way of long-term capital gains

20 per cent.;

(viii) on any other income

48 per cent.

Explanation.—For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(a) sub-item (a) of item 1 of this Part shall be increased by a surcharge for the purposes of the Union; and

(b) sub-item (a) of item 2 of this Part shall be increased by a surcharge, calculated at the rate of ten per cent. of such income-tax.

PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable to tax under section 115AC or section 115B or section 115BB], shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 50,000 | Nil; |
| (2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000 | 10 per cent. of the amount by which the total income exceeds Rs. 50,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 19,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or section 112 or section 113 shall,—

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding sixty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced,

(ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident:

Provided further that in case of persons mentioned in item (i) above having a total income exceeding sixty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of sixty thousand rupees by more than the amount of income that exceeds sixty thousand rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|---|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000. | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112 or section 113, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified or in section 112 or section 113, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

- I. In the case of a domestic company 35 per cent. of the total income;
- II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

(ii) on the balance, if any, of the total income

50 per cent.;

48 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of item I of this Paragraph, or in section 112 or section 113, shall, in the case of every domestic company be increased by a surcharge calculated at the rate of ten per cent. of such income-tax.

PART IV

[See section 2(10)(c)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1999, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1999.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or, if by virtue of any provision of the Income-

tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999, is a loss, then, for the purposes of sub-section (9) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2000.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance (No. 2) Act, 1991 (49 of 1991),

or of the First Schedule to the Finance Act, 1992 (18 of 1992), or of the First Schedule to the Finance Act, 1993 (38 of 1993), or of the First Schedule to the Finance Act, 1994 (32 of 1994), or of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance (No. 2) Act, 1996 (33 of 1996), or of the First Schedule to the Finance Act, 1997 (26 of 1997), or of the First Schedule to the Finance (No. 2) Act, 1998 (21 of 1998), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

[See sections 116(I) and 133(I)]

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
1	High speed diesel oil	Rupee one per litre

THE THIRD SCHEDULE

(See section 117)

In the First Schedule to the Customs Tariff Act,—

(1) in Chapter 2, for the entry in column (4) occurring against all the sub-heading Nos., the entry "15%" shall be substituted;

(2) in Chapter 3, for the entry in column (4) occurring against all the sub-heading Nos., the entry "15%" shall be substituted;

(3) in Chapter 4, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 0402.10 and 0402.21), the entry "35%" shall be substituted;

(4) in Chapter 5,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 0507.10), the entry "15%" shall be substituted;

(ii) in sub-heading No. 0507.10, for the entries in column (4) and column (5), the entries "15%" and "15%" shall respectively be substituted;

(5) in Chapter 6,—

(i) in sub-heading Nos. 0601.10, 0601.20, 0602.10, 0602.20, 0602.30, 0602.40 and 0602.90, for the entry in column (4) occurring against each of them, the entry "5%" shall be substituted;

(ii) in sub-heading Nos. 0603.10, 0603.90, 0604.10, 0604.91 and 0604.99, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(6) in Chapter 7, for the entries in column (4) and column (5) occurring against all the sub-heading Nos. (except sub-heading Nos. 0713.10, 0713.20, 0713.31, 0713.32, 0713.33, 0713.39, 0713.40, 0713.50 and 0713.90), the entries "15%" and "15%" shall respectively be substituted;

(7) in Chapter 8,—

(i) in sub-heading No. 0804.10, for the entries in column (4) and column (5), the entries "35%" and "25%" shall respectively be substituted;

(ii) in sub-heading Nos. 0806.10 and 0809.40, for the entries in column (4) and column (5) occurring against each of them, the entries "25%" and "15%" shall respectively be substituted;

(iii) in sub-heading No. 0810.90, for the entries in column (4) and column (5), the entries "15%" and "15%" shall respectively be substituted;

(8) in Chapter 9,—

(i) in sub-heading Nos. 0901.11, 0901.12, 0901.21, 0901.22 and 0901.90, for the entries in column (4) and column (5) occurring against each of them, the entries "15%" and "15% less 13 paise per kg." shall respectively be substituted;

(ii) in sub-heading Nos. 0902.10, 0902.20, 0902.30 and 0902.40, for the entries in column (4) and column (5) occurring against each of them, the entries "15%" and "15% less 26 paise per kg." shall respectively be substituted;

(iii) in sub-heading No. 0903.00, for the entries in column (4) and column (5), the entries "35%" and "35% less 26 paise per kg." shall respectively be substituted;

(iv) in sub-heading Nos. 0904.11 and 0904.12, for the entries in column (4) and column (5) occurring against each of them, the entries "35%" and "27.5%" shall respectively be substituted;

(v) in sub-heading Nos. 0904.20 and 0905.00, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(vi) in sub-heading Nos. 0906.10, 0906.20, 0907.00 and 0908.10, for the entries in column (4) and column (5) occurring against each of them, the entries "35%" and "27.5%" shall respectively be substituted;

(vii) in sub-heading No. 0908.20, for the entry in column (4), the entry "35%" shall be substituted;

(viii) in sub-heading No. 0908.30, for the entries in column (4) and column (5), the entries "35%" and "27.5%" shall respectively be substituted;

(ix) in sub-heading Nos. 0909.10, 0909.20, 0909.30, 0909.40, 0909.50, 0910.10, 0910.20, 0910.30, 0910.40, 0910.50, 0910.91 and 0910.99, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(9) in Chapter 11, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(10) in Chapter 12,—

(i) in sub-heading Nos. 1209.11, 1209.19, 1209.21, 1209.22, 1209.23, 1209.24, 1209.25, 1209.26, 1209.29 and 1209.30, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(ii) in sub-heading Nos. 1209.91 and 1209.99, for the entry in column (4) occurring against each of them, the entry "5%" shall be substituted;

(iii) in sub-heading No. 1211.90, for the entry in column (4), the entry "15%" shall be substituted;

(11) in Chapter 13, in sub-heading Nos. 1302.19 and 1302.20, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(12) in Chapter 14, for the entry in column (4) occurring against all the sub-heading Nos., the entry "15%" shall be substituted;

(13) in Chapter 15,—

(i) in sub-heading No. 1501.00, for the entry in column (4), the entry "35%" shall be substituted;

(ii) in sub-heading No. 1502.00, for the entry in column (4), the entry "15%" shall be substituted;

(iii) in sub-heading Nos. 1503.00, 1504.10, 1504.20 and 1504.30, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(iv) in sub-heading Nos. 1505.10 and 1505.90, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(v) in sub-heading No. 1506.00, for the entry in column (4), the entry "35%" shall be substituted;

(vi) in sub-heading Nos. 1507.10, 1507.90, 1508.10, 1508.90, 1509.10, 1509.90, 1510.00, 1511.10, 1511.90, 1512.11, 1512.19, 1512.21, 1512.29, 1513.21, 1513.29, 1514.10, 1514.90, 1515.11, 1515.19, 1515.21, 1515.29, 1515.30, 1515.40, 1515.50, 1515.60 and 1515.90, for the entries in column (4) and column (5) occurring against each of them, the entries "35%" and "25%" shall respectively be substituted;

(vii) in sub-heading Nos. 1516.10, 1516.20, 1517.10, 1517.90, 1518.00, 1520.00, 1521.10, 1521.90 and 1522.00, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(14) in Chapter 17,—

(i) in sub-heading Nos. 1702.11 and 1702.19, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(ii) in sub-heading Nos. 1703.10 and 1703.90, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(15) in Chapter 18, in sub-heading No. 1801.00, for the entry in column (4), the entry "35%" shall be substituted;

(16) in Chapter 19, in sub-heading No. 1901.10, for the entry in column (4), the entry "15%" shall be substituted;

(17) in Chapter 21, in sub-heading No. 2106.90, for the entry in column (4), the entry "180%" shall be substituted;

(18) in Chapter 22,—

(i) in sub-heading No. 2207.10, for the entry in column (4), the entry "230%" shall be substituted;

(ii) in sub-heading No. 2207.20, for the entry in column (4), the entry "15%" shall be substituted;

(iii) in sub-heading Nos. 2208.20, 2208.30, 2208.40, 2208.50, 2208.60, 2208.70 and 2208.90, for the entry in column (4) occurring against each of them, the entry "230%" shall be substituted;

(19) in Chapter 23, in sub-heading No. 2301.20, for the entry in column (4), the entry "5%" shall be substituted;

(20) in Chapter 25,—

(i) in sub-heading Nos. 2504.10 and 2504.90, for the entries in column (4) and column (5) occurring against each of them, the entries "35%" and "25%" shall respectively be substituted;

(ii) in sub-heading Nos. 2510.10 and 2510.20, for the entry in column (4) occurring against each of them, the entry "5%" shall be substituted;

(21) in Chapter 26, in sub-heading Nos. 2620.11, 2620.19 and 2620.30, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(22) in Chapter 27,—

(i) in sub-heading Nos. 2701.11, 2701.12, 2701.19, 2701.20, 2702.10, 2702.20, 2703.00 and 2704.00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(ii) in sub-heading Nos. 2705.00, 2706.00, 2707.10, 2707.20 and 2707.30, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(iii) in sub-heading No. 2707.40, for the entry in column (4), the entry "25%" shall be substituted;

(iv) in sub-heading Nos. 2707.50, 2707.91, 2707.99, 2708.10 and 2708.20, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(23) in Chapter 28,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2801.20, 2814.10, 2814.20, 2823.00 and 2845.10), the entry "35%" shall be substituted;

(ii) in sub-heading No. 2801.20, for the entry in column (4), the entry "15%" shall be substituted;

(iii) in sub-heading Nos. 2814.10 and 2814.20, for the entry in column (4) occurring against each of them, the entry "5%" shall be substituted;

(iv) in sub-heading No. 2845.10, for the entry in column (4), the entry "15%" shall be substituted;

(24) in Chapter 29,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2901.10, 2901.21, 2901.22, 2901.23, 2901.24, 2901.29, 2902.11, 2902.19, 2902.20, 2902.30, 2902.41, 2902.42, 2902.43, 2902.44, 2902.50, 2902.60, 2902.70, 2902.90, 2903.15, 2903.21, 2905.11, 2905.31, 2907.11, 2910.30, 2915.21, 2917.12, 2917.36, 2917.37, 2918.12, 2918.14, 2926.10, 2933.21, 2933.71, 2936.10, 2936.21, 2936.22, 2936.23, 2936.24, 2936.25, 2936.26, 2936.27, 2936.28, 2936.29, 2936.90, 2937.10, 2937.21, 2937.22, 2937.29, 2937.91, 2937.92, 2937.99, 2939.41, 2939.42, 2939.49, 2939.50, 2941.10, 2941.20, 2941.30, 2941.40, 2941.50 and 2941.90), the entry "35%" shall be substituted;

(ii) in sub-heading Nos. 2901.10, 2901.21, 2901.22, 2901.23, 2901.24, 2901.29, 2902.11, 2902.19, 2902.20, 2902.30, 2902.41 and 2902.42, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(iii) in sub-heading No. 2902.43, for the entry in column (4), the entry "5%" shall be substituted;

(iv) in sub-heading Nos. 2902.44, 2902.50, 2902.60, 2902.70, 2902.90, 2903.15 and 2903.21, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(v) in sub-heading Nos. 2905.11 and 2910.30, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(vi) in sub-heading No. 2926.10, for the entry in column (4), the entry "15%" shall be substituted;

(vii) in sub-heading Nos. 2936.10, 2936.21, 2936.22, 2936.23, 2936.24, 2936.25, 2936.26, 2936.27, 2936.28, 2936.29 and 2936.90, for the entries in column (4) and column (5) occurring against each of them, the entries "35%" and "29%" shall respectively be substituted;

(viii) in sub-heading Nos. 2937.10, 2937.21, 2937.22, 2937.29, 2937.91, 2937.92, 2937.99, 2939.41, 2939.42, 2939.49 and 2939.50, for the entries in column (4) and column (5) occurring against each of them, the entries "35%" and "25%" shall respectively be substituted;

(ix) in sub-heading Nos. 2941.10, 2941.20, 2941.30, 2941.40, 2941.50 and 2941.90, for the entries in column (4) and column (5) occurring against each of them, the entries "35%" and "29%" shall respectively be substituted;

(25) in Chapter 30,—

(i) for the entries in column (4) and column (5) occurring against all the sub-heading Nos. (except sub-heading Nos. 3005.10, 3005.90, 3006.10, 3006.20, 3006.30, 3006.40, 3006.50 and 3006.60), the entries "35%" and "25%" shall respectively be substituted;

(ii) in sub-heading Nos. 3005.10, 3005.90, 3006.10, 3006.20, 3006.30, 3006.40 and 3006.50, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(26) in Chapter 31,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3102.21, 3102.50, 3104.30, 3105.20, 3105.30, 3105.40, 3105.51, 3105.59, 3105.60 and 3105.90), the entry "35%" shall be substituted;

(ii) in sub-heading Nos. 3102.21, 3105.20, 3105.51, 3105.59, 3105.60 and 3105.90, for the entries in column (4) occurring against each of them, the entry "5%" shall be substituted;

(27) in Chapter 32,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3201.10, 3201.20, 3201.90, 3206.11 and 3206.19), the entry "35%" shall be substituted;

(ii) in sub-heading Nos. 3201.10 and 3201.20, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(iii) in sub-heading No. 3201.90, for the entries in column (4) and column (5), the entries "15%" and "5%" shall respectively be substituted;

(28) in Chapter 33, in sub-heading No. 3302.10, for the entry in column (4), the entry "180%" shall be substituted;

(29) in Chapter 35, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(30) in Chapter 36, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(31) in Chapter 37,—

(i) in sub-heading Nos. 3701.20 and 3702.20, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(ii) in sub-heading Nos. 3707.10 and 3707.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(32) in Chapter 38,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3801.10, 3802.10, 3812.10, 3815.11, 3815.12, 3815.19, 3815.90, 3817.10 and 3818.00), the entry "35%" shall be substituted;

(ii) in sub-heading Nos. 3801.10, 3802.10 and 3812.10, for the entries in column (4) and column (5) occurring against each of them, the entries "35%" and "25%" shall respectively be substituted;

(iii) in sub-heading No. 3817.10, for the entry in column (4), the entry "25%" shall be substituted;

(iv) in sub-heading No. 3818.00, for the entry in column (4), the entry "15%" shall be substituted;

(33) in Chapter 39, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(34) in Chapter 40, in sub-heading Nos. 4001.10, 4001.21, 4001.22 and 4001.29, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(35) in Chapter 41, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 4101.10, 4101.21, 4101.22, 4101.29, 4101.30, 4101.40, 4102.10, 4102.21, 4102.29, 4103.10, 4103.20 and 4103.90), the entry "25%" shall be substituted;

(36) in Chapter 43, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 4301.30, 4302.13, 4303.10, 4303.90 and 4304.00), the entry "15%" shall be substituted;

(37) in Chapter 44,—

(i) in sub-heading Nos. 4401.10, 4401.21, 4401.22, 4401.30, 4402.00, 4403.10, 4403.20, 4403.41, 4403.49, 4403.91, 4403.92 and 4403.99, for the entry in column (4) occurring against each of them, the entry "5%" shall be substituted;

(ii) in sub-heading Nos. 4408.10, 4408.31, 4408.39, 4408.90, 4409.10, 4409.20, 4412.13, 4412.14, 4412.19, 4412.22, 4412.23, 4412.29, 4412.92, 4412.93, 4412.99, 4413.00, 4414.00, 4415.10, 4415.20, 4416.00, 4417.00, 4418.10, 4418.20, 4418.30, 4418.40, 4418.50, 4418.90, 4419.00, 4420.10, 4420.90, 4421.10 and 4421.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(38) in Chapter 45, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(39) in Chapter 47, in sub-heading No. 4702.00, for the entry in column (4), the entry "5%" shall be substituted;

(40) in Chapter 48,—

(i) in sub-heading No. 4801.00, for the entry in column (4), the entry "15%" shall be substituted;

(ii) in sub-heading Nos. 4802.10, 4802.20, 4802.30, 4802.40, 4802.51, 4802.52, 4802.53, 4802.60, 4803.00, 4804.11, 4804.19, 4804.21, 4804.29, 4804.31, 4804.39, 4804.41, 4804.42, 4804.49, 4804.51, 4804.52, 4804.59, 4805.10, 4805.21, 4805.22, 4805.23, 4805.29, 4805.30, 4805.40, 4805.50, 4805.60, 4805.70, 4805.80, 4806.10, 4806.20, 4806.30, 4806.40, 4807.10, 4807.90, 4808.10, 4808.20, 4808.30, 4808.90, 4809.10, 4809.20, 4809.90, 4810.11, 4810.12, 4810.21, 4810.29, 4810.31, 4810.32, 4810.39, 4810.91, 4810.99, 4811.10, 4811.21, 4811.29, 4811.31, 4811.39, 4811.40, 4811.90 and 4823.20, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(41) in Chapter 49, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 4902.10, 4902.90, 4904.00, 4905.10, 4905.91, 4905.99 and 4906.00), the entry "25%" shall be substituted;

(42) in Chapter 50, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(43) in Chapter 51,—

(i) in sub-heading Nos. 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5102.10, 5102.20, 5103.10, 5103.20, 5103.30 and 5104.00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(ii) in sub-heading Nos. 5105.10, 5105.21, 5105.29, 5105.30 and 5105.40, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(44) in Chapter 52, in sub-heading No. 5201.00, for the entry in column (4), the entry "5%" shall be substituted;

(45) in Chapter 53, in sub-heading Nos. 5301.10, 5301.21, 5301.29, 5301.30, 5302.10, 5302.90, 5303.10, 5303.90, 5304.10, 5304.90, 5305.11, 5305.19, 5305.21, 5305.29, 5305.91 and 5305.99, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(46) in Chapter 54, in sub-heading Nos. 5402.10, 5402.20, 5402.31, 5402.32, 5402.33, 5402.39, 5402.41, 5402.42, 5402.43, 5402.49, 5402.51, 5402.52, 5402.59, 5402.61, 5402.62, 5402.69, 5403.10, 5403.20, 5403.31, 5403.32, 5403.33, 5403.39, 5403.41, 5403.42 and 5403.49, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(47) in Chapter 55, in sub-heading Nos. 5501.10, 5501.20, 5501.30, 5501.90, 5502.00, 5503.10, 5503.20, 5503.30, 5503.40, 5503.90, 5504.10, 5504.90, 5505.10, 5505.20, 5506.10, 5506.20, 5506.30, 5506.90 and 5507.00, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(48) in Chapter 68, in sub-heading Nos. 6806.10, 6806.20 and 6806.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(49) in Chapter 69, in sub-heading Nos. 6902.10, 6902.20, 6902.90, 6903.10, 6903.20 and 6903.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(50) in Chapter 72,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7202.11, 7202.19, 7202.21, 7202.29, 7202.30, 7202.41, 7202.49, 7202.50, 7202.60, 7202.70, 7202.80, 7202.91, 7202.92, 7202.93 and 7202.99), the entry "35%" shall be substituted;

(ii) in sub-heading Nos. 7202.11, 7202.19, 7202.21, 7202.29, 7202.30, 7202.41, 7202.49, 7202.50, 7202.60, 7202.70, 7202.80, 7202.91, 7202.92, 7202.93 and 7202.99, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(51) in Chapter 73, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(52) in Chapter 74, in sub-heading Nos. 7401.10, 7401.20, 7402.00, 7403.11, 7403.12, 7403.13, 7403.19, 7403.21, 7403.22, 7403.23, 7403.29 and 7404.00, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(53) in Chapter 75, for the entry in column (4) occurring against all the sub-heading Nos., the entry "15%" shall be substituted;

(54) in Chapter 76, for the entry in column (4) occurring against all the sub-heading Nos., the entry "25%" shall be substituted;

(55) in Chapter 78, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(56) in Chapter 79, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(57) in Chapter 80, for the entry in column (4) occurring against all the sub-heading Nos., the entry "25%" shall be substituted;

(58) in Chapter 81,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8104.11 and 8104.19), the entry "35%" shall be substituted;

(ii) in sub-heading Nos. 8104.11 and 8104.19, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(59) in Chapter 84,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8407.21, 8407.31, 8407.32, 8407.33, 8407.34, 8408.20, 8409.91,

8409.99, 8414.30, 8414.80, 8414.90, 8415.10, 8415.20, 8415.81, 8415.82, 8415.83, 8415.90, 8418.21, 8418.22, 8418.29, 8418.91, 8418.99, 8422.11, 8422.19, 8422.90, 8423.10, 8448.19, 8450.11, 8450.12, 8450.19, 8450.20, 8450.90, 8451.10, 8451.90, 8452.10, 8452.30, 8452.40, 8452.90, 8469.12, 8469.20, 8469.30, 8471.10, 8471.30, 8471.41, 8471.49, 8471.50, 8471.60, 8471.70, 8471.80, 8471.90, 8472.10, 8472.20, 8472.30, 8472.90, 8473.10, 8473.30, 8473.40, 8473.50, 8479.50, 8479.60, 8479.89, 8482.10, 8482.20, 8482.30, 8482.40, 8482.50, 8482.80, 8482.91, 8482.99, 8483.20, 8485.10 and 8485.90), the entry "25%" shall be substituted;

(ii) in sub-heading Nos. 8407.31, 8407.32, 8407.33, 8407.34, 8408.20, 8409.91, 8409.99, 8414.30, 8414.80, 8414.90, 8450.20, 8451.10, 8451.90, 8452.30 and 8452.40, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(iii) in sub-heading No. 8471.70, for the entry in column (4), the entry "5%" shall be substituted;

(iv) in sub-heading No. 8473.50, for the entry in column (4), the entry "20%" shall be substituted;

(v) in sub-heading Nos. 8479.50, 8479.60 and 8479.89, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(vi) in sub-heading Nos. 8482.10, 8482.20, 8482.30, 8482.40, 8482.50, 8482.80, 8482.91, 8482.99 and 8483.20, for the entry in column (4) occurring against each of them, the entry "15% plus Rs. 150 per kg." shall be substituted;

(vii) in sub-heading Nos. 8485.10 and 8485.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(60) in Chapter 85,—

(i) in sub-heading Nos. 8501.10, 8501.20, 8501.31, 8501.32, 8501.33, 8501.34, 8501.40, 8501.51, 8501.52, 8501.53, 8501.61, 8501.62, 8501.63, 8501.64, 8502.11, 8502.12, 8502.13, 8502.20, 8502.31, 8502.39, 8502.40, 8503.00, 8504.10, 8504.21, 8504.22, 8504.23, 8504.31, 8504.32, 8504.33, 8504.34, 8504.40, 8504.50, 8504.90, 8505.11, 8505.19, 8505.20, 8505.30, 8505.90, 8508.10, 8508.20, 8508.80, 8508.90, 8514.10, 8514.20, 8514.30, 8514.40, 8514.90, 8515.11, 8515.19, 8515.21, 8515.29, 8515.31, 8515.39, 8515.80, 8515.90 and 8516.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(ii) in sub-heading Nos. 8517.11, 8517.19, 8517.21 and 8517.22, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(iii) in sub-heading Nos. 8517.30 and 8517.50, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(iv) in sub-heading No. 8517.80, for the entry in column (4), the entry "35%" shall be substituted;

(v) in sub-heading Nos. 8518.90 and 8520.20, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(vi) in sub-heading No. 8522.10, for the entry in column (4), the entry "35%" shall be substituted;

(vii) in sub-heading Nos. 8523.11, 8523.12, 8523.13, 8523.20, 8523.90, 8524.31, 8524.40, 8524.91, 8525.10 and 8525.20, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(viii) in sub-heading No. 8527.90, for the entry in column (4), the entry "35%" shall be substituted;

(ix) in sub-heading Nos. 8529.10, 8529.90, 8530.10, 8530.80, 8530.90 and 8531.20, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(x) in sub-heading No. 8532.21, for the entry in column (4), the entry "15%" shall be substituted;

(xi) in sub-heading Nos. 8532.22 and 8532.23, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(xii) in sub-heading No. 8532.24, for the entry in column (4), the entry "15%" shall be substituted;

(xiii) in sub-heading Nos. 8532.25, 8532.29 and 8532.30, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(xiv) in sub-heading Nos. 8532.90, 8533.10, 8533.21, 8533.29, 8533.31, 8533.39, 8533.40 and 8534.00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xv) in sub-heading Nos. 8536.10, 8536.20, 8536.30, 8536.41, 8536.49, 8536.50, 8536.61, 8536.69, 8536.90 and 8537.10, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xvi) in sub-heading No. 8537.20, for the entry in column (4), the entry "25%" shall be substituted;

(xvii) in sub-heading Nos. 8538.10, 8538.90 and 8540.11, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xviii) in sub-heading Nos. 8540.12 and 8540.20, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(xix) in sub-heading No. 8540.40, for the entry in column (4), the entry "5%" shall be substituted;

(xx) in sub-heading Nos. 8540.50, 8540.60, 8540.71, 8540.72, 8540.79, 8540.81 and 8540.89, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(xxi) in sub-heading No. 8540.91, for the entry in column (4), the entry "35%" shall be substituted;

(xxii) in sub-heading No. 8540.99, for the entry in column (4), the entry "25%" shall be substituted;

(xxiii) in sub-heading Nos. 8541.10, 8541.21, 8541.29, 8541.30, 8541.40, 8541.50 and 8541.60, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(xxiv) in sub-heading Nos. 8542.12, 8542.13, 8542.14, 8542.19, 8542.30, 8542.40, 8542.50 and 8542.90, for the entry in column (4) occurring against each of them, the entry "5%" shall be substituted;

(xxv) in sub-heading Nos. 8543.11, 8543.19, 8543.20 and 8543.30, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(xxvi) in sub-heading No. 8543.40, for the entry in column (4), the entry "35%" shall be substituted;

(xxvii) in sub-heading No. 8543.81, for the entry in column (4), the entry "25%" shall be substituted;

(xxviii) in sub-heading No. 8543.89, for the entry in column (4), the entry "35%" shall be substituted;

(xxix) in sub-heading Nos. 8543.90, 8544.70, 8545.11, 8546.19, 8545.20, 8545.90, 8546.10, 8546.20, 8546.90, 8547.10, 8547.20 and 8547.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(xxx) in sub-heading Nos. 8548.10 and 8548.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(61) in Chapter 90, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 9001.10, 9001.20, 9001.30, 9001.40, 9001.50, 9001.90, 9002.11, 9002.19, 9002.20, 9002.90, 9003.11, 9003.19, 9003.90, 9004.10, 9004.90, 9005.10, 9005.80, 9005.90, 9006.10, 9006.20, 9006.30, 9006.40, 9006.51, 9006.52, 9006.53, 9006.59, 9006.61, 9006.62, 9006.69, 9007.11, 9007.19, 9007.20, 9008.10, 9008.20, 9008.30, 9008.40, 9009.11, 9009.12, 9009.21, 9009.22, 9009.30, 9010.10, 9010.41, 9010.42, 9010.49, 9010.50, 9010.60, 9022.19, 9022.29, 9022.30, 9022.90, 9026.20, 9026.80, 9026.90, 9027.20, 9027.30, 9027.50 and 9027.80), the entry "25%" shall be substituted;

(62) in Chapter 91,—

(i) in sub-heading Nos. 9108.11, 9108.12, 9108.19, 9108.20, 9108.91, 9108.99, 9110.11, 9110.12, 9110.19 and 9110.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(ii) in sub-heading Nos. 9111.20, 9111.80, 9112.10, 9112.80, 9112.90, 9113.20 and 9113.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(63) in Chapter 92, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(64) in Chapter 98,—

(i) in sub-heading No. 9801.00, for the entry in column (4), the entry "25%" shall be substituted;

(ii) in sub-heading Nos. 9802.00 and 9804.10, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(65) in Chapter 99, heading No. 99.02 and the entries relating thereto shall be omitted.

THE FOURTH SCHEDULE

[See section 134(1)(b)(ii)]

PART I

In the Schedule to the Central Excise Tariff Act,—

(1) in Chapter 4,—

(i) in sub-heading No. 0401.13, for the entry in column (4), the entry "Nil" shall be substituted;

(ii) in sub-heading No. 0401.14, for the entry in column (4), the entry "16%" shall be substituted;

(iii) in sub-heading Nos. 0402.11, 0403.11 and 0404.11, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;

(2) in Chapter 9,—

(i) NOTES 2 and 4 shall be omitted;

(ii) in sub-heading No. 0903.10, for the entry in column (4), the entry "Nil" shall be substituted;

(3) in Chapter 11, in sub-heading No. 1102.00, for the entry in column (4), the entry "16%" shall be substituted;

(4) in Chapter 15, in sub-heading Nos. 1506.00, 1507.00 and 1508.10, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(5) in Chapter 17, in sub-heading Nos. 1701.90 and 1704.10, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(6) in Chapter 18, in sub-heading Nos. 1801.00, 1802.00, 1803.00 and 1804.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(7) in Chapter 19, in sub-heading Nos. 1901.19, 1901.91, 1901.92, 1902.19, 1904.10 and 1905.31, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(8) in Chapter 21,—

(i) in sub-heading Nos. 2101.10, 2101.20, 2102.10, 2102.90 and 2105.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(ii) in sub-heading No. 2106.00, for the entry in column (4), the entry "24%" shall be substituted;

(iii) in sub-heading No. 2107.00, for the entry in column (4), the entry "16%" shall be substituted;

(iv) in sub-heading No. 2108.10, for the entry in column (4), the entry "24%" shall be substituted;

(v) in sub-heading Nos. 2108.20 and 2108.99, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(9) in Chapter 22,—

(i) in sub-heading No. 2201.19, for the entry in column (4), the entry "16%" shall be substituted;

(ii) in sub-heading No. 2201.20, for the entry in column (4), the entry "24%" shall be substituted;

(iii) in sub-heading No. 2202.19, for the entry in column (4), the entry "16%" shall be substituted;

(iv) in sub-heading No. 2202.20, for the entry in column (4), the entry "24%" shall be substituted;

(v) in sub-heading Nos. 2202.99, 2203.00 and 2204.10, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(10) in Chapter 24, —

(i) in sub-heading No. 2401.90, for the entry in column (4), the entry "24%" shall be substituted;

(ii) in sub-heading No. 2403.11, for the entry in column (4), the entry "Rs.75 per thousand" shall be substituted;

(iii) in sub-heading Nos. 2404.40, 2404.50 and 2404.99, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted.

(11) in Chapter 25, in sub-heading Nos. 2502.21, 2502.30, 2502.40, 2502.50 and 2502.90, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(12) in Chapter 27, —

(i) in sub-heading Nos. 2707.10, 2707.20, 2707.30, 2707.40, 2707.50, 2707.60 and 2707.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(ii) in sub-heading Nos. 2708.11, 2708.19 and 2708.20, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(iii) in sub-heading Nos. 2710.11, 2710.12 and 2710.13, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(iv) in sub-heading Nos. 2710.14 and 2710.15, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(v) in sub-heading No. 2710.19, for the entry in column (4), the entry "24%" shall be substituted;

(vi) in sub-heading No. 2710.90, for the entry in column (4), the entry "16%" shall be substituted;

(vii) in sub-heading Nos. 2711.11, 2711.12, 2711.19 and 2711.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(viii) in sub-heading Nos. 2712.10, 2712.20, 2712.90, 2713.11, 2713.12, 2713.20, 2713.30, 2714.10, 2714.90, 2715.10 and 2715.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(13) in Chapter 28, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2804.11, 2804.12, 2804.21, 2804.31, 2804.32, 2804.33, 2805.11, 2811.21, 2814.10, 2833.10, 2833.20, 2844.10, 2844.20, 2845.10, 2845.20, 2847.11, 2851.11, 2851.21 and 2851.30), the entry "16%" shall be substituted;

(14) in Chapter 29, for the entry in column (4) occurring against all the sub-heading Nos., the entry "16%" shall be substituted;

(15) in Chapter 30, in sub-heading Nos. 3001.00, 3003.10, 3004.90, 3005.20 and 3005.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(16) in Chapter 31, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 3101.00), the entry "16%" shall be substituted;

(17) in Chapter 32,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3201.00 and 3215.10), the entry "16%" shall be substituted;

(ii) in sub-heading No. 3201.00, for the entry in column (4), the entry "8%" shall be substituted;

(iii) in sub-heading No. 3215.10, for the entry in column (4), the entry "Nil" shall be substituted;

(18) in Chapter 33,—

(i) in sub-heading Nos. 3301.00, 3302.10 and 3302.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(ii) in sub-heading No. 3304.00, for the entry in column (4), the entry "24%" shall be substituted;

(iii) in sub-heading Nos. 3305.10 and 3305.91, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(iv) in sub-heading No. 3305.99, for the entry in column (4), the entry "24%" shall be substituted;

(v) in sub-heading No. 3306.90, for the entry in column (4), the entry "16%" shall be substituted;

(vi) in heading No. 33.07, for the entry in column (3), the following entry shall be substituted, namely:—

"PRE-SHAVE, SHAVING OR AFTER-SHAVE PREPARATIONS (NOT CONTAINING SUBSTANCES SPECIFIED IN NOTE 1(d) TO THIS CHAPTER), PERSONAL DEODORANTS, BATH PREPARATIONS, DEPILATORIES AND OTHER PERFUMERY, COSMETICS OR TOILET PREPARATIONS, NOT ELSEWHERE SPECIFIED OR INCLUDED; PREPARED ROOM DEODORIZERS, WHETHER OR NOT PERFUMED OR HAVING DISINFECTANT PROPERTIES";

(vii) in sub-heading Nos. 3307.10 and 3307.20, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(viii) in sub-heading No. 3307.31, for the entry in column (4), the entry "16%" shall be substituted;

(ix) in sub-heading No. 3307.39, for the entry in column (4), the entry "24%" shall be substituted;

(x) in sub-heading No. 3307.49, for the entry in column (4), the entry "16%" shall be substituted;

(xi) in sub-heading Nos. 3307.50 and 3307.90, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(19) in Chapter 34,—

(i) in sub-heading No. 3401.12, in column (3), the words "for heating" shall be omitted;

(ii) in sub-heading Nos. 3401.19, 3401.20, 3401.30, 3402.90, 3403.10, 3403.90, 3404.00, 3405.10, 3405.20, 3405.30, 3405.40, 3405.90, 3406.90 and 3407.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(20) in Chapter 35, for the entry in column (4) occurring against all the sub-heading Nos., the entry "16%" shall be substituted;

(21) in Chapter 36, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 3605.00), the entry "16%" shall be substituted;

(22) in Chapter 37, in sub-heading Nos. 3701.10, 3701.20, 3701.90, 3702.10, 3702.20, 3702.90, 3703.10, 3703.20, 3704.10, 3704.20, 3704.90 and 3707.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(23) in Chapter 38, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3805.19, 3806.19, 3808.10, 3808.20, 3823.00 and 3824.20), the entry "16%" shall be substituted;

(24) in Chapter 39,—

(i) in sub-heading Nos. 3901.10, 3901.20, 3901.30, 3901.90, 3902.10, 3902.20, 3902.30, 3902.90 and 3903.10, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(ii) in sub-heading Nos. 3903.20 and 3903.30, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(iii) in sub-heading Nos. 3903.90, 3904.10, 3904.21, 3904.22, 3904.30, 3904.40, 3904.50, 3904.61, 3904.69 and 3904.90, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(iv) in sub-heading Nos. 3905.10, 3905.20, 3905.90, 3906.10, 3906.20, 3906.90, 3907.10, 3907.20, 3907.30, 3907.40, 3907.50, 3907.60, 3907.70, 3907.80, 3907.91, 3907.99, 3908.10, 3908.90, 3909.10, 3909.20, 3909.30, 3909.40, 3909.51, 3909.52, 3909.59, 3909.60, 3910.00, 3911.10, 3911.20, 3911.90, 3912.11, 3912.12, 3912.20, 3912.31, 3912.39, 3912.90, 3913.10, 3913.20, 3913.30, 3913.90 and 3914.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(v) in sub-heading Nos. 3915.10, 3915.20, 3915.30, 3915.90, 3916.90, 3917.00, 3918.10, 3918.90, 3919.00, 3920.11, 3920.12, 3920.13, 3920.14, 3920.15, 3920.16, 3920.17, 3920.18, 3920.19, 3920.21, 3920.22, 3920.23, 3920.24, 3920.25, 3920.26, 3920.27, 3920.28, 3920.29, 3920.31, 3920.32, 3920.33, 3920.34, 3920.35, 3920.36, 3920.37, 3920.38, 3920.39, 3921.11, 3921.19, 3921.90, 3922.10, 3922.20 and 3922.90, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(vi) in sub-heading No. 3923.10, for the entry in column (4), the entry "16%" shall be substituted;

(vii) in sub-heading No. 3923.90, for the entry in column (4), the entry "24%" shall be substituted;

(viii) in sub-heading No. 3924.10, for the entry in column (4), the entry "16%" shall be substituted;

(ix) in sub-heading Nos. 3924.90, 3925.10, 3925.20, 3925.30, 3925.91, 3925.99, 3926.10 and 3926.90, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(25) in Chapter 40,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 4001.00, 4005.10, 4005.20, 4006.10, 4008.11, 4008.19, 4008.21, 4008.22, 4010.10, 4010.90, 4011.10, 4011.90, 4012.11, 4012.19, 4012.90, 4013.10, 4013.90, 4014.10 and 4016.11), the entry "16%" shall be substituted;

(ii) in sub-heading Nos. 4006.10, 4008.19, 4008.22, 4010.10, 4010.90, 4011.90, 4012.11, 4012.19, 4012.90, 4013.90 and 4016.11, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(26) in Chapter 42, in sub-heading Nos. 4201.10 and 4201.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(27) in Chapter 43, in sub-heading No. 4301.00, for the entry in column (4), the entry "24%" shall be substituted;

(28) in Chapter 44, in sub-heading Nos. 4402.00, 4404.90, 4405.90, 4408.10, 4408.20, 4408.30, 4408.40, 4408.90, 4409.00 and 4410.11, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(29) in Chapter 45, in sub-heading No. 4501.00, for the entry in column (4), the entry "16%" shall be substituted;

(30) in Chapter 47, in sub-heading No. 4702.90, for the entry in column (4), the entry "16%" shall be substituted;

(31) in Chapter 48,—

(i) after NOTE 10, the following NOTE shall be inserted, namely:—

'10A. In relation to the thermal paper falling under this Chapter, the process of slitting or cutting or both of these processes shall amount to "manufacture";

(ii) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 4801.00, 4802.10, 4802.20, 4802.30, 4804.10, 4804.20, 4811.31, 4817.00, 4818.10, 4819.11, 4819.12, 4820.00, 4821.00, 4823.10, 4823.20, 4823.30 and 4823.40), the entry "16%" shall be substituted;

(iii) in sub-heading No. 4811.31, for the entry in column (4), the entry "24%" shall be substituted;

(iv) in sub-heading No. 4818.10, for the entry in column (4), the entry "8%" shall be substituted;

(v) in sub-heading No. 4823.40, for the entry in column (4), the entry "24%" shall be substituted;

(32) in Chapter 49, in sub-heading No. 4901.10, for the entry in column (4), the entry "16%" shall be substituted;

(33) in Chapter 50, in sub-heading No. 5004.19, for the entry in column (4), the entry "16%" shall be substituted;

(34) in Chapter 51, in sub-heading Nos. 5108.00, 5109.00, 5110.10, 5110.21, 5110.22, 5110.23, 5110.29, 5111.10, 5111.21, 5111.22, 5111.23, 5111.29, 5112.10, 5112.21, 5112.22, 5112.23 and 5112.29, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(35) in Chapter 52,—

(i) in sub-heading No. 5204.10, for the entry in column (4), the entry "8%" shall be substituted;

(ii) in sub-heading Nos. 5204.90, 5205.11, 5205.19, 5206.11 and 5206.12, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(iii) in sub-heading Nos. 5207.10, 5207.21, 5207.22, 5207.23, 5207.29, 5208.10, 5208.21, 5208.22, 5208.23, 5208.29, 5209.10, 5209.21, 5209.22, 5209.23 and 5209.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(36) in Chapter 53, in sub-heading Nos. 5302.10, 5302.90, 5304.10, 5304.90, 5305.11, 5305.19, 5305.21, 5305.29, 5305.91, 5305.99, 5306.11, 5306.19, 5308.11, 5308.12, 5308.13, 5308.14, 5308.19, 5311.10, 5311.21, 5311.22, 5311.23 and 5311.29, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(37) in Chapter 54,—

(i) in NOTE 3, for the words "cabling or any other process", the words "cabling, air-mingling, air texturing or any other process" shall be substituted;

(ii) in sub-heading Nos. 5401.10 and 5401.20, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(iii) in sub-heading Nos. 5402.10, 5402.20, 5402.31 and 5402.32, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(iv) in sub-heading No. 5402.39, for the entry in column (4), the entry "16%" shall be substituted;

(v) in sub-heading Nos. 5402.41, 5402.42 and 5402.43, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(vi) in sub-heading No. 5402.49, for the entry in column (4), the entry "16%" shall be substituted;

(vii) in sub-heading Nos. 5402.51 and 5402.52, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(viii) in sub-heading No. 5402.59, for the entry in column (4), the entry "16%" shall be substituted;

(ix) in sub-heading Nos. 5402.61 and 5402.62, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(x) in sub-heading Nos. 5402.69, 5403.10, 5403.20, 5403.31, 5403.32, 5403.33, 5403.39, 5403.41, 5403.42, 5403.49, 5404.10, 5404.90 and 5405.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(xi) in sub-heading Nos. 5406.10, 5406.21, 5406.22, 5406.23, 5406.29, 5407.10, 5407.21, 5407.22, 5407.23 and 5407.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(38) in Chapter 55,—

(i) in NOTE 2, for the words "cabling or any other process", the words "cabling, air-mingling, air texturing or any other process" shall be substituted;

(ii) in sub-heading Nos. 5501.10, 5501.20, 5501.30, 5501.90, 5502.00, 5503.10, 5503.20, 5503.30, 5503.40, 5503.90, 5504.10 and 5504.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(iii) in sub-heading No. 5505.10, for the entry in column (4), the entry "24%" shall be substituted;

(iv) in sub-heading Nos. 5505.20, 5506.10, 5506.20, 5506.30, 5506.90, 5507.00, 5508.10, 5508.20, 5509.11, 5509.19, 5509.21, 5509.22, 5509.31, 5509.32, 5509.41, 5509.42, 5509.50, 5509.60, 5509.90, 5510.11, 5510.12 and 5510.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(v) in sub-heading Nos. 5511.10, 5511.21, 5511.22, 5511.23, 5511.29, 5512.10, 5512.21, 5512.22, 5512.23, 5512.29, 5513.10, 5513.21, 5513.22, 5513.23, 5513.29, 5514.10, 5514.21, 5514.22, 5514.23 and 5514.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(39) in Chapter 56, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 5607.10 and 5608.11), the entry "16%" shall be substituted;

(40) in Chapter 57, in sub-heading Nos. 5702.19 and 5703.90, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(41) in Chapter 58,—

(i) in sub-heading Nos. 5801.11 and 5801.12, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(ii) in sub-heading Nos. 5801.21, 5801.22, 5801.31 and 5801.32, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(iii) in sub-heading Nos. 5801.91 and 5801.92, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(iv) in sub-heading Nos. 5802.21, 5802.22, 5802.31 and 5802.32, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(v) in sub-heading Nos. 5802.41, 5802.42, 5802.51, 5802.52, 5804.11, 5804.12, 5804.19, 5806.10 and 5806.20, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(vi) in sub-heading Nos. 5806.31 and 5806.32, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(vii) in sub-heading Nos. 5806.39, 5806.40, 5808.90, 5809.00 and 5810.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(42) in Chapter 59,—

(i) in sub-heading Nos. 5902.10, 5902.20, 5902.90, 5903.10, 5903.20 and 5903.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(ii) in sub-heading Nos. 5904.10, 5904.91, 5904.92 and 5905.00, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(iii) in sub-heading Nos. 5906.99, 5907.11, 5907.12 and 5907.19, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(iv) in sub-heading No. 5907.90, for the entry in column (4), the entry "24%" shall be substituted;

(v) in sub-heading Nos. 5908.00 and 5909.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(vi) in sub-heading No. 5910.00, for the entry in column (4), the entry "24%" shall be substituted;

(vii) in sub-heading Nos. 5911.10, 5911.20, 5911.30, 5911.40 and 5911.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(43) in Chapter 60,—

(i) in sub-heading Nos. 6001.11 and 6001.12, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(ii) in sub-heading No. 6001.19, for the entry in column (4), the entry "16%" shall be substituted;

(iii) in sub-heading Nos. 6001.21 and 6001.22, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(iv) in sub-heading No. 6001.29, for the entry in column (4), the entry "16%" shall be substituted;

(v) in sub-heading Nos. 6001.91 and 6001.92, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(vi) in sub-heading Nos. 6001.99, 6002.10 and 6002.20, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(vii) in sub-heading No. 6002.30, for the entry in column (4), the entry "8%" shall be substituted;

(viii) in sub-heading No. 6002.41, for the entry in column (4), the entry "16%" shall be substituted;

(ix) in sub-heading Nos. 6002.42 and 6002.43, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(x) in sub-heading Nos. 6002.49 and 6002.91, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(xi) in sub-heading Nos. 6002.92 and 6002.93, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(xii) in sub-heading No. 6002.99, for the entry in column (4), the entry "16%" shall be substituted;

(44) in Chapter 63, in sub-heading Nos. 6305.31 and 6305.39, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(45) in Chapter 64, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 6401.12, 6401.13 and 6401.92), the entry "16%" shall be substituted;

(46) in Chapter 65, for the entry in column (4) occurring against all the sub-heading Nos., the entry "16%" shall be substituted;

(47) in Chapter 67, in sub-heading Nos. 6701.00 and 6702.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(48) in Chapter 68, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 6807.10 and 6807.20), the entry "16%" shall be substituted;

(49) in Chapter 69, —

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 6901.10, 6901.20 and 6906.10), the entry "16%" shall be substituted;

(ii) in sub-heading No. 6906.10, for the entry in column (4), the entry "24%" shall be substituted;

(50) in Chapter 70, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7010.11, 7010.12, 7010.21, 7011.10, 7012.10, 7013.10 and 7015.00), the entry "16%" shall be substituted;

(51) in Chapter 71, in sub-heading Nos. 7101.39, 7101.40, 7101.70, 7101.80 and 7101.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(52) in Chapter 72, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7204.21, 7219.30, 7220.30 and 7222.50), the entry "16%" shall be substituted;

(53) in Chapter 73, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7308.50, 7319.10, 7323.10 and 7326.21), the entry "16%" shall be substituted;

(54) in Chapter 74, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7404.10, 7408.12, 7408.22 and 7418.10), the entry "16%" shall be substituted;

(55) in Chapter 75, for the entry in column (4) occurring against all the sub-heading Nos., the entry "16%" shall be substituted;

(56) in Chapter 76, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7602.10 and 7615.20), the entry "16%" shall be substituted;

(57) in Chapter 78, for the entry in column (4) occurring against all the sub-heading Nos., the entry "16%" shall be substituted;

(58) in Chapter 79, for the entry in column (4) occurring against all the sub-heading Nos., the entry "16%" shall be substituted;

(59) in Chapter 80, for the entry in column (4) occurring against all the sub-heading Nos., the entry "16%" shall be substituted;

(60) in Chapter 81, for the entry in column (4) occurring against all the sub-heading Nos., the entry "16%" shall be substituted;

(61) in Chapter 82, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 8215.00), the entry "16%" shall be substituted;

(62) in Chapter 83, for the entry in column (4) occurring against all the sub-heading Nos., the entry "16%" shall be substituted;

(63) in Chapter 84,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8401.10, 8413.11, 8413.12, 8413.13, 8413.14, 8413.20, 8413.91, 8414.10, 8414.20, 8414.30, 8414.91, 8414.92, 8415.00, 8418.90, 8424.10, 8424.91, 8432.00, 8433.00, 8434.10, 8434.90, 8436.00, 8437.00, 8442.10, 8442.20, 8452.11, 8452.19, 8452.20, 8452.30, 8452.90, 8469.10, 8476.91, 8479.11, 8481.10, 8481.20, 8481.91, 8481.92 and 8483.10), the entry "16%" shall be substituted;

(ii) in sub-heading Nos. 8414.30, 8414.92, 8415.00, 8418.90, 8476.91, 8481.10 and 8481.91, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(64) in Chapter 85,—

(i) for "NOTE 7" inserted *vide* Finance (No. 2) Act, 1998 (21 of 1998), "NOTE 7A" shall be substituted;

(ii) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8502.10, 8524.20, 8524.32, 8527.10, 8528.10, 8528.21, 8528.22, 8528.23, 8528.24, 8528.90, 8536.10 and 8539.10), the entry "16%" shall be substituted;

(iii) in sub-heading No. 8536.10, for the entry in column (4), the entry "24%" shall be substituted;

(65) in Chapter 86, for the entry in column (4) occurring against all the sub-heading Nos., the entry "16%" shall be substituted;

(66) in Chapter 87,—

(i) in sub-heading No. 8701.90, for the entry in column (4), the entry "16%" shall be substituted;

(ii) in sub-heading No. 8702.10, for the entry in column (4), the entry "24%" shall be substituted;

(iii) in sub-heading Nos. 8702.90 and 8703.10, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(iv) in sub-heading No. 8703.90, for the entry in column (4), the entry "24%" shall be substituted;

(v) in sub-heading Nos. 8704.10, 8704.20 and 8704.30, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(vi) in sub-heading No. 8704.90, for the entry in column (4), the entry "24%" shall be substituted;

(vii) in sub-heading Nos. 8705.00 and 8706.19, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(viii) in sub-heading No. 8706.21, for the entry in column (4), the entry "24%" shall be substituted;

(ix) in sub-heading Nos. 8706.29 and 8706.31, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(x) in sub-heading No. 8706.39, for the entry in column (4), the entry "24%" shall be substituted;

(xi) in sub-heading Nos. 8706.41 and 8706.42, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(xii) in sub-heading No. 8706.49, for the entry in column (4), the entry "24%" shall be substituted;

(xiii) in sub-heading Nos. 8706.50, 8707.00, 8708.00, 8709.00, 8710.00 and 8711.10, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(xiv) in sub-heading No. 8711.20, for the entry in column (4), the entry "24%" shall be substituted;

(xv) in sub-heading No. 8711.30, for the entry in column (4), the entry "16%" shall be substituted;

(xvi) in sub-heading No. 8711.90, for the entry in column (4), the entry "24%" shall be substituted;

(xvii) in sub-heading Nos. 8714.00, 8715.00 and 8716.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(67) in Chapter 89,—

(i) in sub-heading Nos. 8903.00 and 8907.00, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;

(ii) in sub-heading No. 8908.00, for the entry in column (4), the entry "16%" shall be substituted;

(68) in Chapter 90,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 9001.10, 9003.11, 9003.19, 9004.90, 9017.10, 9018.00, 9019.00, 9020.00, 9021.10, 9021.20, 9021.90, 9022.10, 9032.11 and 9032.91) the entry "16%" shall be substituted;

(ii) in sub-heading Nos. 9032.11 and 9032.91, for the entry in column (4), occurring against each of them, the entry "24%" shall be substituted;

(69) in Chapter 91, in sub-heading Nos. 9101.90 and 9102.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(70) in Chapter 93, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 9301.00), the entry "24%" shall be substituted;

(71) in Chapter 94,—

(i) in sub-heading Nos. 9401.00, 9402.10, 9402.90 and 9403.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(ii) in sub-heading No. 9404.00, for the entry in column (4), the entry "24%" shall be substituted;

(iii) in sub-heading No. 9405.90, for the entry in column (4), the entry "16%" shall be substituted;

(72) in Chapter 95, in sub-heading Nos. 9504.90, 9505.00, 9506.00, 9507.00 and 9508.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(73) in Chapter 96,—

(i) in sub-heading Nos. 9601.00, 9602.00 and 9604.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(ii) in sub-heading No. 9605.10, for the entry in column (4), the entry "24%" shall be substituted;

(iii) in sub-heading Nos. 9605.90, 9606.90, 9608.00, 9611.00, 9612.00, 9613.10, 9613.90, 9614.00, 9616.00, 9617.00 and 9618.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted.

PART II

Heading No.	Sub-heading No.	Description of Goods	Rate of duty
(1)	(2)	(3)	(4)

In the Schedule to the Central Excise Tariff Act,—

(1) in Chapter 9, for heading 09.02 and the entries relating thereto, the following shall be substituted, namely:—

" 09.02	0902.00	TEA, INCLUDING TEA WASTE	Rs. 2 per kilogram";
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(2) in Chapter 33, for heading No. 33.03 and the entries relating thereto, the following shall be substituted, namely:—

"33.03	3303.00	PERFUMES AND TOILET WATERS, NOT CONTAINING THE SUBSTANCES SPECIFIED IN NOTE 1(d) TO THIS CHAPTER	16%";
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(3) in Chapter 85, for heading No. 85.28 and the entries relating thereto, the following shall be substituted, namely:—

"85.28	8528.00	TELEVISION RECEIVERS (INCLUDING VIDEO MONITORS AND VIDEO PROJECTORS), WHETHER OR NOT INCOR- PORATING RADIO BROADCAST RECEIVERS OR SOUND OR VIDEO RECORDING OR REPRODUCING APPARATUS	16% or Rs. 34,000 per set, whichever is higher".
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THE FIFTH SCHEDULE

[See section 134(1)(b)(iii)]

THE SECOND SCHEDULE

(See section 2)

NOTES

1. In this Schedule, "heading", "sub-heading" and "Chapter" mean respectively a heading, sub-heading and Chapter in the First Schedule to the Central Excise Tariff Act, 1985.

2. The rules for the interpretation of the First Schedule to the Central Excise Tariff Act, 1985, the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall apply to the interpretation of this Schedule.

Heading No.	Sub-heading No.	Description of Goods	Rate of special duty of excise
(1)	(2)	(3)	(4)
21.06	2106.00	PAN MASALA	16%
21.08	2108.10	- Preparations for lemonades or other beverages intended for use in the manufacture of aerated water	16%
22.01	2201.20	- Aerated waters	16%
22.02	2202.20	- Aerated waters	16%
24.01	2401.90	- Other	16%
24.04	2404.40	- Chewing tobacco and preparations containing chewing tobacco	16%
	2404.50	- Snuff of tobacco and preparations containing snuff of tobacco in any proportion	16%
	2404.99	- Other	16%
27.10	2710.11	-- Special boiling point spirits (other than Benzene, Toluol) with nominal boiling point range 55 - 115° C	8%
	2710.12	-- Special boiling point spirits (other than Benzene, Benzol, Toluene and Toluol) with nominal boiling point range 63 - 70° C	8%
	2710.13	-- Other special boiling point spirits (other than Benzene, Benzol, Toluene and Toluol)	8%
	2710.19	-- Other	8%

Heading No.	Sub-heading No.	Description of Goods	Rate of special duty of excise
(1)	(2)	(3)	(4)
33.04	3304.00	BEAUTY OR MAKE-UP PREPARATIONS AND PREPARATIONS FOR THE CARE OF THE SKIN (OTHER THAN MEDICAMENTS), INCLUDING SUNSCREEN AND SUNTAN PREPARATIONS; MANICURE OR PEDICURE PREPARATIONS	6%
33.05	3305.99	-- Other	6%
33.07	3307.10.	- Pre-shave, shaving or after shave preparations	6%
	3307.20	- Personal deodorants and anti-perspirants	6%
	3307.39	-- Other	6%
	3307.90	- Other	6%
40.11	4011.90	-- Other	6%
40.12	4012.11	-- Of a kind used in two-wheeled and three-wheeled motor vehicles	6%
	4012.19	-- Other	6%
	4012.90	- Other	6%
40.13	4013.90	- Other	6%
54.02	5402.20	- High tenacity yarn of polyesters	6%
		- Textured yarn:	
	5402.32	-- Of polyesters	6%
		- Other yarn, single, untwisted:	
	5402.42	-- Of polyesters, partially oriented	6%
	5402.43	-- Of polyesters, other	6%
		- Other yarn, single, twisted :	
	5402.52	-- Of polyesters	6%
		- Other yarn, multiple(folded) or cabled:	
	5402.62	-- Of polyesters	6%
55.05	5505.10	- Of synthetic fibres	6%
84.14	8414.30	- Gas compressors of a kind used in refrigerating and air-conditioning appliances and machinery	6%
	8414.92	-- Of goods covered by sub-heading No. 8414.30	6%

Heading No.	Sub-heading No.	Description of Goods	Rate of special duty of excise
(1)	(2)	(3)	(4)
84.15	8415.00	AIR-CONDITIONING MACHINES, COMPRISING A MOTOR-DRIVEN FAN AND ELEMENTS FOR CHANGING THE TEMPERATURE AND HUMIDITY, INCLUDING THOSE MACHINES IN WHICH THE HUMIDITY CANNOT BE SEPARATELY REGULATED	6%
84.18	8418.90	- Parts	6%
84.76	8476.91	-- Parts of machines of sub-heading No. 8476.11	6%
84.81	8481.10	- Expansion valves and Solenoid valves for refrigerating and air-conditioning appliances and machinery	6%
	8481.91	-- Of goods covered by sub-heading No. 8481.10	6%
85.36	8536.10	- Overload protection or thermal relays, starting relay controls, for refrigerating and air-conditioning appliances and machinery	6%
87.02	8702.10	- Motor vehicles principally designed for the transport of more than six persons, but not more than twelve persons, excluding the driver	6%
87.03	8703.90	Other	16%
87.04	8704.90	- Other	16%
87.06	8706.21	-- For the vehicles of sub-heading No. 8702.10	6%
	8706.39	-- For the vehicles of sub-heading No. 8703.90	16%
	8706.49	-- For the vehicles of sub-heading No. 8704.30 or 8704.90	16%
90.32	9032.11	-- Thermostats and pressure switches for refrigerating and air-conditioning appliances and machinery	6%
	9032.91	-- Of goods covered by sub-heading No. 9032.11	6%
96.05	9605.10	- For personal toilet	6%.

THE SIXTH SCHEDULE

(See section 135)

In the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, in sub-heading No. 2403.11, for the entry in column (4), the entry "Rs. 35 per thousand" shall be substituted.

Sd/-

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

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